

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The High Speed Internet Services and Information
5 Technology Act is amended by changing Section 20 as follows:

6 (20 ILCS 661/20)

7 Sec. 20. Duties of the enlisted nonprofit organization.

8 (a) The high speed Internet deployment strategy and demand
9 creation initiative to be performed by the nonprofit
10 organization shall include, but not be limited to, the
11 following actions:

12 (1) Create a geographic statewide inventory of high
13 speed Internet service and other relevant broadband and
14 information technology services. The inventory shall:

15 (A) identify geographic gaps in high speed
16 Internet service through a method of GIS mapping of
17 service availability and GIS analysis at the census
18 block level;

19 (B) provide a baseline assessment of statewide
20 high speed Internet deployment in terms of percentage
21 of Illinois households with high speed Internet
22 availability; and

23 (C) collect from Facilities-based Providers of

1 Broadband Connections to End User Locations the
2 information provided pursuant to the agreements
3 entered into with the non-profit organization as of the
4 effective date of this amendatory Act of the 96th
5 General Assembly or similar information from
6 Facilities-based Providers of Broadband Connections to
7 End User Locations that do not have the agreements on
8 said date.

9 For the purposes of item (C), "Facilities-based
10 Providers of Broadband Connections to End User
11 Locations" means an entity that meets any of the
12 following conditions:

13 (i) It owns the portion of the physical
14 facility that terminates at the end user location.

15 (ii) It obtains unbundled network elements
16 (UNEs), special access lines, or other leased
17 facilities that terminate at the end user location
18 and provisions or equips them as broadband.

19 (iii) It provisions or equips a broadband
20 wireless channel to the end user location over
21 licensed or unlicensed spectrum.

22 "Facilities-based Provider of Broadband
23 Connections to End User Locations" does not include
24 providers of terrestrial fixed wireless services (such
25 as Wi-Fi and other wireless Ethernet, or wireless local
26 area network, applications) that only enable local

1 distribution and sharing of a premises broadband
2 facility and does not include air-to-ground services.
3 ~~shall have the same meaning as that term is defined in~~
4 ~~Section 13-407 of the Public Utilities Act.~~

5 (2) Track and identify, through customer interviews
6 and surveys and other publicly available sources,
7 statewide residential and business adoption of high speed
8 Internet, computers, and related information technology
9 and any barriers to adoption.

10 (3) Build and facilitate in each county or designated
11 region a local technology planning team with members
12 representing a cross section of the community, including,
13 but not limited to, representatives of business, K-12
14 education, health care, libraries, higher education,
15 community-based organizations, local government, tourism,
16 parks and recreation, and agriculture. Each team shall
17 benchmark technology use across relevant community
18 sectors, set goals for improved technology use within each
19 sector, and develop a plan for achieving its goals, with
20 specific recommendations for online application
21 development and demand creation.

22 (4) Collaborate with high speed Internet providers and
23 technology companies to encourage deployment and use,
24 especially in underserved areas, by aggregating local
25 demand, mapping analysis, and creating market intelligence
26 to improve the business case for providers to deploy.

1 (5) Collaborate with the Department in developing a
2 program to increase computer ownership and broadband
3 access for disenfranchised populations across the State.
4 The program may include grants to local community
5 technology centers that provide technology training,
6 promote computer ownership, and increase broadband access.

7 (6) Collaborate with the Department and the Illinois
8 Commerce Commission regarding the collection of the
9 information required by this Section to assist in
10 monitoring and analyzing the broadband markets and the
11 status of competition and deployment of broadband services
12 to consumers in the State, including the format of
13 information requested, provided the Commission enters into
14 the proprietary and confidentiality agreements governing
15 such information.

16 (b) The nonprofit organization may apply for federal grants
17 consistent with the objectives of this Act.

18 (c) (Blank).

19 (d) The nonprofit organization shall have the power to
20 obtain or to raise funds other than the grants received from
21 the Department under this Act.

22 (e) The nonprofit organization and its Board of Directors
23 shall exist separately and independently from the Department
24 and any other governmental entity, but shall cooperate with
25 other public or private entities it deems appropriate in
26 carrying out its duties.

1 (f) Notwithstanding anything in this Act or any other Act
2 to the contrary, any information that is designated
3 confidential or proprietary by an entity providing the
4 information to the nonprofit organization or any other entity
5 to accomplish the objectives of this Act shall be deemed
6 confidential, proprietary, and a trade secret and treated by
7 the nonprofit organization or anyone else possessing the
8 information as such and shall not be disclosed.

9 (g) The nonprofit organization shall provide a report to
10 the Commission on Government Forecasting and Accountability on
11 an annual basis for the first 3 complete State fiscal years
12 following its enlistment.

13 (Source: P.A. 99-576, eff. 7-15-16.)

14 Section 10. The Public Utilities Act is amended by changing
15 Sections 2-105, 2-106, 4-204, 4-304, 5-102, 6-102, 7-204,
16 8-103B, 8-507, 8-508, 8-509, 9-102.1, 9-201, 9-214, 9-222.2,
17 9-223, 10-101, 10-101.1, 10-103, 10-104, 10-105, 10-106,
18 10-107, 10-110, 10-111, 10-201, 10-204, 13-401.1, 13-506.2,
19 13-515, and 16-108.5 as follows:

20 (220 ILCS 5/2-105) (from Ch. 111 2/3, par. 2-105)

21 Sec. 2-105. Organization; executive director; assistants
22 to Commissioners.

23 (a) In order that the Commission may perform the duties and
24 exercise the powers granted to it and assume its

1 responsibilities under this Act and any and all other statutes
2 of this State, the Commission, acting jointly, shall hire an
3 executive director who shall be responsible to the Commission
4 and shall serve subject only to removal by the Commission for
5 good cause. The executive director shall be responsible for the
6 supervision and direction of the Commission staff and for the
7 necessary administrative activities of the Commission, subject
8 only to Commission direction and approval. In furtherance
9 thereof, the executive director may organize the Commission
10 staff into such departments, bureaus, sections, or divisions as
11 he may deem necessary or appropriate. In connection therewith,
12 the executive director may delegate and assign to one or more
13 staff member or members the supervision and direction of any
14 such department, bureau, section, or division.

15 (b) The executive director shall obtain, subject to the
16 provisions of the Personnel Code, such accountants, engineers,
17 experts, inspectors, clerks, and employees as may be necessary
18 to carry out the provisions of this Act or to perform the
19 duties and exercise the powers conferred by law upon the
20 Commission. All accountants, engineers, experts, inspectors,
21 clerks, and employees of the Commission shall receive the
22 compensation fixed by the Executive Director, subject only to
23 Commission approval. Notwithstanding these provisions, each
24 commissioner shall have the authority to retain up to 2
25 full-time assistants, subject to the provisions of the
26 Personnel Code, who shall be supervised by the commissioner and

1 whose compensation shall be fixed by the commissioner.

2 (c) The commissioners, executive director, administrative
3 law judges ~~hearing examiners~~, accountants, engineers, clerks,
4 inspectors, experts, and other employees shall have reimbursed
5 to them all actual and necessary traveling and other expenses
6 and disbursements necessarily incurred or made by them in the
7 discharge of their official duties. The Commission and
8 executive director may also incur necessary expenses for office
9 furniture, stationery, printing, and other incidental
10 expenses.

11 (d) A copy of any contract executed between the Commission
12 and the executive director which establishes or provides for
13 the expenditure of public funds shall be filed with the State
14 Comptroller within 15 days of execution and shall be available
15 for public inspection. Any cancellation or modification of any
16 such contract shall be filed with the State Comptroller within
17 15 days of execution and shall be available for public
18 inspection. When a contract or modification required to be
19 filed under this subsection has not been filed within 30 days
20 of execution, the State Comptroller shall refuse to issue any
21 warrant for payment thereunder until the Commission files the
22 contract or modification with the State Comptroller.

23 (Source: P.A. 89-429, eff. 12-15-95.)

24 (220 ILCS 5/2-106) (from Ch. 111 2/3, par. 2-106)

25 Sec. 2-106. (a) The executive director shall employ

1 ~~administrative law judges hearing examiners~~ to make valuations
2 of public utility properties, or to estimate proper rates of
3 service of public utilities, or to examine other questions
4 coming before the Commission, by taking testimony or by
5 independent investigation. The executive director shall
6 designate one administrative law judge ~~hearing examiner~~ to
7 serve as chief administrative law judge ~~hearing examiner~~ who
8 shall be responsible for supervising and directing the
9 activities of all administrative law judges ~~hearing examiners~~,
10 subject to the approval of the executive director.
11 Administrative law judges ~~Hearing examiners~~ shall, under the
12 direction of the chief administrative law judge ~~hearing~~
13 ~~examiner~~, take testimony of witnesses, examine accounts,
14 records, books, papers and physical properties, either by
15 holding hearings or making independent investigations, in any
16 matter referred to them by the chief administrative law judge
17 ~~hearing examiner~~; and make report thereof to the chief
18 administrative law judge ~~hearing examiner~~, and attend at
19 hearings before the Commission when so directed by the chief
20 administrative law judge ~~hearing examiner~~, for the purpose of
21 explaining their investigations and the result thereof to the
22 Commission and the parties interested; and perform such other
23 duties as the chief administrative law judge ~~hearing examiner~~
24 may direct.

25 (b) All administrative law judges ~~hearing examiners~~
26 employed by the Commission shall be thoroughly familiar with

1 applicable rules of evidence, procedure and administrative
2 law. At least every two years after an administrative law judge
3 ~~a hearing examiner~~ is employed by the Commission, the executive
4 director and chief administrative law judge ~~hearing examiner~~
5 shall review the performance of such administrative law judge
6 ~~hearing examiner~~ based on whether the administrative law judge
7 ~~examiner~~:

8 (i) is, and is perceived to be, fair to all parties;

9 (ii) has a judicious and considerate temperament;

10 (iii) is capable of comprehending and properly conducting
11 proceedings and other duties to which he is assigned;

12 (iv) is capable of understanding and rendering rulings on
13 legal and evidentiary issues;

14 (v) is capable of independently evaluating the evidentiary
15 record and drafting a proposed final order which reflects
16 careful, impartial and competent analysis; and

17 (vi) meets any other qualifications deemed relevant or
18 necessary by the executive director or chief administrative law
19 judge ~~hearing examiner~~.

20 (Source: P.A. 84-617.)

21 (220 ILCS 5/4-204) (from Ch. 111 2/3, par. 4-204)

22 Sec. 4-204. ~~If Whenever the Commission receives notice from~~
23 the Secretary of State has dissolved or revoked the authority
24 of that any domestic or foreign company ~~corporation~~ regulated
25 under this Act to do business in Illinois because that company

1 has not paid a franchise tax, license fee, filing fee, or
2 penalty required under the ~~The~~ Business Corporation Act of 1983
3 or under any other Illinois statute governing the formation or
4 organization of domestic or foreign corporations, limited
5 liability companies, partnerships, associations, or other
6 organizations, ~~approved January 5, 1984, as amended, then the~~
7 ~~Commission shall institute proceedings for the revocation of~~
8 the franchise, license, permit, or right to engage in any
9 business required under this Act shall be suspended by
10 operation of law ~~or the suspension thereof~~ until such time
11 within a one-year period after the date of suspension as the
12 delinquent franchise tax, license fee, filing fee, or penalty
13 is paid and revoked by operation of law for failure to pay the
14 delinquent franchise tax, license fee, filing fee, or penalty
15 within the one-year suspension period.

16 (Source: P.A. 84-617.)

17 (220 ILCS 5/4-304) (from Ch. 111 2/3, par. 4-304)

18 Sec. 4-304. Beginning in 1986, the Commission shall prepare
19 an annual report which shall be filed by January 31 of each
20 year with the Joint Committee on Legislative Support Services
21 of the General Assembly and the Governor and which shall be
22 publicly available. Such report shall include:

23 (1) A general review of agency activities and changes,
24 including:

25 (a) a review of significant decisions and other

1 regulatory actions for the preceding year, and pending
2 cases, and an analysis of the impact of such decisions
3 and actions, and potential impact of any significant
4 pending cases;

5 (b) for each significant decision, regulatory
6 action and pending case, a description of the positions
7 advocated by major parties, including Commission
8 staff, and for each such decision rendered or action
9 taken, the position adopted by the Commission and
10 reason therefor;

11 (c) a description of the Commission's budget,
12 caseload, and staff levels, including specifically:

13 (i) a breakdown by type of case of the cases
14 resolved and filed during the year and of pending
15 cases;

16 (ii) a description of the allocation of the
17 Commission's budget, identifying amounts budgeted
18 for each significant regulatory function or
19 activity and for each department, bureau, section,
20 division or office of the Commission and its
21 employees;

22 (iii) a description of current employee
23 levels, identifying any change occurring during
24 the year in the number of employees, personnel
25 policies and practices or compensation levels; and
26 identifying the number and type of employees

1 assigned to each Commission regulatory function
2 and to each department, bureau, section, division
3 or office of the Commission;

4 (d) a description of any significant changes in
5 Commission policies, programs or practices with
6 respect to agency organization and administration,
7 hearings and procedures or substantive regulatory
8 activity.

9 (2) A discussion and analysis of the state of each
10 utility industry regulated by the Commission and
11 significant changes, trends and developments therein,
12 including the number and types of firms offering each
13 utility service, existing, new and prospective
14 technologies, variations in the quality, availability and
15 price for utility services in different geographic areas of
16 the State, and any other industry factors or circumstances
17 which may affect the public interest or the regulation of
18 such industries.

19 (3) A specific discussion of the energy planning
20 responsibilities and activities of the Commission and
21 energy utilities, including:

22 (a) the extent to which conservation,
23 cogeneration, renewable energy technologies and
24 improvements in energy efficiency are being utilized
25 by energy consumers, the extent to which additional
26 potential exists for the economical utilization of

1 such supplies, and a description of existing and
2 proposed programs and policies designed to promote and
3 encourage such utilization;

4 (b) a description of each energy plan filed with
5 the Commission pursuant to the provisions of this Act,
6 and a copy, or detailed summary of the most recent
7 energy plans adopted by the Commission;

8 (c) a discussion of the powers by which the
9 Commission is implementing the planning
10 responsibilities of Article VIII, including a
11 description of the staff and budget assigned to such
12 function, the procedures by which Commission staff
13 reviews and analyzes energy plans submitted by the
14 utilities, the Department of Natural Resources, and
15 any other person or party; and

16 (d) a summary of the adoption of solar photovoltaic
17 systems by residential and small business consumers in
18 Illinois and a description of any and all barriers to
19 residential and small business consumers' financing,
20 installation, and valuation of energy produced by
21 solar photovoltaic systems; electric utilities,
22 alternative retail electric suppliers, and installers
23 of distributed generation shall provide all
24 information requested by the Commission or its staff
25 necessary to complete the analysis required by this
26 paragraph (d).

1 (4) A discussion of the extent to which utility
2 services are available to all Illinois citizens including:

3 (a) the percentage and number of persons or
4 households requiring each such service who are not
5 receiving such service, and the reasons therefore,
6 including specifically the number of such persons or
7 households who are unable to afford such service;

8 (b) a critical analysis of existing programs
9 designed to promote and preserve the availability and
10 affordability of utility services; and

11 (c) an analysis of the financial impact on
12 utilities and other ratepayers of the inability of some
13 customers or potential customers to afford utility
14 service, including the number of service
15 disconnections and reconnections, and cost thereof and
16 the dollar amount of uncollectible accounts recovered
17 through rates.

18 (5) A detailed description of the means by which the
19 Commission is implementing its new statutory
20 responsibilities under this Act, and the status of such
21 implementation, including specifically:

22 (a) Commission reorganization resulting from the
23 addition of an Executive Director and administrative
24 law judge hearing examiner qualifications and review;

25 (b) Commission responsibilities for construction
26 and rate supervision, including construction cost

1 audits, management audits, excess capacity
2 adjustments, phase-ins of new plant and the means and
3 capability for monitoring and reevaluating existing or
4 future construction projects;

5 (c) promulgation and application of rules
6 concerning ex parte communications, circulation of
7 recommended orders and transcription of closed
8 meetings.

9 (6) A description of all appeals taken from Commission
10 orders, findings or decisions and the status and outcome of
11 such appeals.

12 (7) A description of the status of all studies and
13 investigations required by this Act, including those
14 ordered pursuant to Sections ~~8-304, 9-242,~~ 9-244 and 13-301
15 and all such subsequently ordered studies or
16 investigations.

17 (8) A discussion of new or potential developments in
18 federal legislation, and federal agency and judicial
19 decisions relevant to State regulation of utility
20 services.

21 (9) All recommendations for appropriate legislative
22 action by the General Assembly.

23 The Commission may include such other information as it
24 deems to be necessary or beneficial in describing or explaining
25 its activities or regulatory responsibilities. The report
26 required by this Section shall be adopted by a vote of the full

1 Commission prior to filing.

2 (Source: P.A. 99-107, eff. 7-22-15.)

3 (220 ILCS 5/5-102) (from Ch. 111 2/3, par. 5-102)

4 Sec. 5-102. The Commission shall have power to establish a
5 uniform system of accounts to be kept by public utilities or to
6 classify public utilities and to establish a uniform system of
7 accounts for each class and to prescribe the manner in which
8 such accounts shall be kept. It may also, in its discretion,
9 prescribe the forms of accounts to be kept by public utilities,
10 including records of service, as well as accounts of earnings
11 and expenses, and any other forms, records and memoranda which
12 in the judgment of the Commission may be necessary to carry out
13 any of the provisions of this Act. ~~The system of accounts~~
14 ~~established by the Commission and the forms of accounts~~
15 ~~prescribed by it shall not be inconsistent, in the case of~~
16 ~~corporations subject to the provisions of the Act of Congress~~
17 ~~entitled, "An Act to regulate commerce," approved February~~
18 ~~fourth, eighteen hundred and eighty seven, and the Acts~~
19 ~~amendatory thereof and supplementary thereto, with the systems~~
20 ~~and forms from time to time established for such corporations~~
21 ~~by the Interstate Commerce Commission, but nothing herein~~
22 ~~contained shall affect the power of the Commission to prescribe~~
23 ~~forms of accounts for such corporations, with the approval of~~
24 ~~the Interstate Commerce Commission, covering information in~~
25 ~~addition to that required by the Interstate Commerce~~

1 ~~Commission.~~ Where the Commission has prescribed the forms of
2 accounts to be kept by any public utility for any of its
3 business, it shall thereafter be unlawful for such public
4 utility to keep any accounts for such business other than those
5 prescribed or approved by the Commission, or those prescribed
6 by or under the authority of any other state or of the United
7 States.

8 The Commission may, from time to time, alter, amend or
9 repeal, in whole or in part, any uniform system of accounts, or
10 the form and manner of keeping accounts.

11 (Source: P.A. 84-617.)

12 (220 ILCS 5/6-102) (from Ch. 111 2/3, par. 6-102)

13 Sec. 6-102. Authorization of issues of stock.

14 (a) Subject to the provisions of this Act and of the order
15 of the Commission issued as provided in this Act, a public
16 utility may issue stocks and stock certificates, and bonds,
17 notes and other evidences of indebtedness payable at periods of
18 more than 12 months after the date thereof for any lawful
19 purpose. However, such public utility shall first have secured
20 from the Commission an order authorizing such issue and stating
21 the amount thereof and the purpose or purposes to which the
22 issue or the proceeds thereof are to be applied, and that in
23 the opinion of the Commission, the money, property or labor to
24 be procured or paid for by such issue is reasonably required
25 for the purpose or purposes specified in the order.

1 (b) The provisions of this subsection (b) shall apply only
2 to (1) any issuances of stock in a cumulative amount, exclusive
3 of any issuances referred to in item (3), that are 10% or more
4 in a calendar year or 20% or more in a 24-month period of the
5 total common stockholders' equity or of the total amount of
6 preferred stock outstanding, as the case may be, of the public
7 utility, and (2) to any issuances of bonds, notes or other
8 evidences of indebtedness in a cumulative principal amount,
9 exclusive of any issuances referred to in item (3), that are
10 10% or more in a calendar year or 20% or more in a 24-month
11 period of the aggregate principal amount of bonds, notes and
12 other evidences of indebtedness of the public utility
13 outstanding, all as of the date of the issuance, but shall not
14 apply to (3) any issuances of stock or of bonds, notes or other
15 evidences of indebtedness 90% or more of the proceeds of which
16 are to be used by the public utility for purposes of refunding,
17 redeeming or refinancing outstanding issues of stock, bonds,
18 notes or other evidences of indebtedness. To enable it to
19 determine whether it will issue the order required by
20 subsection (a) of this Section, the Commission may hold a
21 hearing and may make such additional inquiry or investigation,
22 and examine such witnesses, books, papers, accounts, documents
23 and contracts and require the filing of such data as it may
24 deem of assistance. The public utility may be required by the
25 Commission to disclose every interest of the directors of such
26 public utility in any transaction under investigation. The

1 Commission shall have power to investigate all such
2 transactions and to inquire into the good faith thereof, to
3 examine books, papers, accounts, documents and contracts of
4 public utilities, construction or other companies or of firms
5 or individuals with whom the public utility shall have had
6 financial transactions, for the purpose of enabling it to
7 verify any statements furnished, and to examine into the actual
8 value of property acquired by or services rendered to such
9 public utility. Before issuing its order, the Commission, when
10 it is deemed necessary by the Commission, shall make an
11 adequate physical valuation of all property of the public
12 utility, but a valuation already made under proper public
13 supervision may be adopted, either in whole or in part, at the
14 discretion of the Commission; and shall also examine all
15 previously authorized or outstanding securities of the public
16 utility, and fixed charges attached thereto. A statement of the
17 results of such physical valuation, and a statement of the
18 character of all outstanding securities, together with the
19 conditions under which they are held, shall be included in the
20 order. The Commission may require that such information or such
21 part thereof as it thinks proper, shall appear upon the stock,
22 stock certificate, bond, note or other evidence of indebtedness
23 authorized by its order. The Commission may by its order grant
24 permission for the issue of such stock certificates, or bonds,
25 notes or other evidences of indebtedness in the amount applied
26 for, or in a lesser amount, or not at all, and may attach to the

1 exercise of its permission such condition or conditions as it
2 may deem reasonable and necessary. Nothing in this Section
3 shall prevent a public utility from seeking, nor the Commission
4 from approving, a shelf registration plan for issuing
5 securities over a reasonable period in accordance with
6 regulations established by the United States Securities and
7 Exchange Commission. Any securities issued pursuant to an
8 approved shelf registration plan need not be further approved
9 by the Commission so long as they are in compliance with the
10 approved shelf registration plan. The Commission shall have the
11 power to refuse its approval of applications to issue
12 securities, in whole or in part, upon a finding that the issue
13 of such securities would be contrary to public interest. The
14 Commission may also require the public utility to compile for
15 the information of its shareholders such facts in regard to its
16 financial transactions, in such form as the Commission may
17 direct.

18 No public utility shall, without the consent of the
19 Commission, apply the issue of any stock or stock certificates,
20 or bond, note or other evidence of indebtedness, which was
21 issued pursuant to an order of the Commission entered pursuant
22 to this subsection (b), or any part thereof, or any proceeds
23 thereof, to any purpose not specified in the Commission's order
24 or to any purpose specified in the Commission's order in excess
25 of the amount authorized for such purpose; or issue or dispose
26 of the same on any terms less favorable than those specified in

1 such order, or a modification thereof. The Commission shall
2 have the power to require public utilities to account for the
3 disposition of the proceeds of all sales of stocks and stock
4 certificates, and bonds, notes and other evidences of
5 indebtedness, which were issued pursuant to an order of the
6 Commission entered pursuant to this subsection (b), in such
7 form and detail as it may deem advisable, and to establish such
8 rules and regulations as it may deem reasonable and necessary
9 to insure the disposition of such proceeds for the purpose or
10 purposes specified in its order.

11 (c) A public utility may issue notes, for proper purposes,
12 and not in violation of any provision of this Act or any other
13 Act, payable at periods of not more than 12 months after the
14 date of issuance of the same, without the consent of the
15 Commission; but no such note shall, in whole or in part, be
16 renewed or be refunded from the proceeds of any other such note
17 or evidence of indebtedness from time to time without the
18 consent of the Commission for an aggregate period of longer
19 than 2 years. A "telecommunications carrier" as that term is
20 defined by Section 13-202 of this Act is exempt from the
21 requirements of this subsection (c).

22 (d) Any issuance of stock or of bonds, notes or other
23 evidences of indebtedness, other than issuances of notes
24 pursuant to subsection (c) of this Section, which is not
25 subject to subsection (b) of this Section, shall be regulated
26 by the Commission as follows: the public utility shall file

1 with the Commission, at least 15 days before the date of the
2 issuance, an informational statement setting forth the type and
3 amount of the issue and the purpose or purposes to which the
4 issue or the proceeds thereof are to be applied. Prior to the
5 date of the issuance specified in the public utility's filing,
6 the Commission, if it finds that the issuance is not subject to
7 subsection (b) of this Section, shall issue a written order in
8 conformance with subsection (a) of this Section authorizing the
9 issuance. Notwithstanding any other provisions of this Act, the
10 Commission may delegate its authority to enter the order
11 required by this subsection (d) to an administrative law judge
12 ~~a hearing examiner~~.

13 (e) The Commission shall have no power to authorize the
14 capitalization of the right to be a corporation, or to
15 authorize the capitalization of any franchise, license, or
16 permit whatsoever or the right to own, operate or enjoy any
17 such franchise, license, or permit, in excess of the amount
18 (exclusive of any tax or annual charge) actually paid to the
19 State or to a political subdivision thereof as the
20 consideration for the grant of such franchise, license, permit
21 or right; nor shall any contract for consolidation or lease be
22 capitalized, nor shall any public utility hereafter issue any
23 bonds, notes or other evidences of indebtedness against or as a
24 lien, upon any contract for consolidation or merger.

25 (f) The provisions of this Section shall not apply to
26 public utilities which are not corporations duly incorporated

1 under the laws of this State to the extent that any such public
2 utility may issue stock, bonds, notes or other evidences of
3 indebtedness not directly or indirectly constituting or
4 creating a lien or charge on, or right to profits from, any
5 property used or useful in rendering service within this State.
6 ~~Nothing in this Section or in Section 6-104 of this Act shall~~
7 ~~be construed to require a common carrier by railroad subject to~~
8 ~~Part I of the Interstate Commerce Act, being part of an Act of~~
9 ~~the 49th Congress of the United States entitled "An Act to~~
10 ~~Regulate Commerce", as amended, to secure from the Commission~~
11 ~~authority to issue or execute or deliver any conditional sales~~
12 ~~contract or similar contract or instrument reserving or~~
13 ~~retaining title in the seller for all or part of the purchase~~
14 ~~price of equipment or property used or to be used for or in~~
15 ~~connection with the transportation of persons or property.~~

16 (Source: P.A. 90-561, eff. 12-16-97; 91-69, eff. 7-9-99.)

17 (220 ILCS 5/7-204) (from Ch. 111 2/3, par. 7-204)

18 Sec. 7-204. Reorganization defined; Commission approval
19 therefore.

20 (a) For purposes of this Section, "reorganization" means
21 any transaction which, regardless of the means by which it is
22 accomplished, results in a change in the ownership of a
23 majority of the voting capital stock of an Illinois public
24 utility; or the ownership or control of any entity which owns
25 or controls a majority of the voting capital stock of a public

1 utility; or by which 2 public utilities merge, or by which a
2 public utility acquires substantially all of the assets of
3 another public utility; provided, however, that
4 "reorganization" as used in this Section shall not include a
5 mortgage or pledge transaction entered into to secure a bona
6 fide borrowing by the party granting the mortgage or making the
7 pledge.

8 In addition to the foregoing, "reorganization" shall
9 include for purposes of this Section any transaction which,
10 regardless of the means by which it is accomplished, will have
11 the effect of terminating the affiliated interest status of any
12 entity as defined in paragraphs (a), (b), (c) or (d) of
13 subsection (2) of Section 7-101 of this Act where such entity
14 had transactions with the public utility, in the 12 calendar
15 months immediately preceding the date of termination of such
16 affiliated interest status subject to subsection (3) of Section
17 7-101 of this Act with a value greater than 15% of the public
18 utility's revenues for that same 12-month period. If the
19 proposed transaction would have the effect of terminating the
20 affiliated interest status of more than one Illinois public
21 utility, the utility with the greatest revenues for the
22 12-month period shall be used to determine whether such
23 proposed transaction is a reorganization for the purposes of
24 this Section. The Commission shall have jurisdiction over any
25 reorganization as defined herein.

26 (b) No reorganization shall take place without prior

1 Commission approval. The Commission shall not approve any
2 proposed reorganization if the Commission finds, after notice
3 and hearing, that the reorganization will adversely affect the
4 utility's ability to perform its duties under this Act. The
5 Commission shall not approve any proposed reorganization
6 unless the Commission finds, after notice and hearing, ~~In~~
7 ~~reviewing any proposed reorganization, the Commission must~~
8 find that:

9 (1) the proposed reorganization will not diminish the
10 utility's ability to provide adequate, reliable,
11 efficient, safe and least-cost public utility service;

12 (2) the proposed reorganization will not result in the
13 unjustified subsidization of non-utility activities by the
14 utility or its customers;

15 (3) costs and facilities are fairly and reasonably
16 allocated between utility and non-utility activities in
17 such a manner that the Commission may identify those costs
18 and facilities which are properly included by the utility
19 for ratemaking purposes;

20 (4) the proposed reorganization will not significantly
21 impair the utility's ability to raise necessary capital on
22 reasonable terms or to maintain a reasonable capital
23 structure;

24 (5) the utility will remain subject to all applicable
25 laws, regulations, rules, decisions and policies governing
26 the regulation of Illinois public utilities;

1 (6) the proposed reorganization is not likely to have a
2 significant adverse effect on competition in those markets
3 over which the Commission has jurisdiction;

4 (7) the proposed reorganization is not likely to result
5 in any adverse rate impacts on retail customers.

6 (c) The Commission shall not approve a reorganization
7 without ruling on: (i) the allocation of any savings resulting
8 from the proposed reorganization; and (ii) whether the
9 companies should be allowed to recover any costs incurred in
10 accomplishing the proposed reorganization and, if so, the
11 amount of costs eligible for recovery and how the costs will be
12 allocated.

13 (d) The Commission shall issue its Order approving or
14 denying the proposed reorganization within 11 months after the
15 application is filed. The Commission may extend the deadline
16 for a period equivalent to the length of any delay which the
17 Commission finds to have been caused by the Applicant's failure
18 to provide data or information requested by the Commission or
19 that the Commission ordered the Applicant to provide to the
20 parties. The Commission may also extend the deadline by an
21 additional period not to exceed 3 months to consider amendments
22 to the Applicant's filing, or to consider reasonably
23 unforeseeable changes in circumstances subsequent to the
24 Applicant's initial filing.

25 (e) Subsections (c) and (d) and subparagraphs (6) and (7)
26 of subsection (b) of this Section shall apply only to merger

1 applications submitted to the Commission subsequent to April
2 23, 1997. No other Commission approvals shall be required for
3 mergers that are subject to this Section.

4 (f) In approving any proposed reorganization pursuant to
5 this Section the Commission may impose such terms, conditions
6 or requirements as, in its judgment, are necessary to protect
7 the interests of the public utility and its customers.

8 (Source: P.A. 90-561, eff. 12-16-97.)

9 (220 ILCS 5/8-103B)

10 Sec. 8-103B. Energy efficiency and demand-response
11 measures.

12 (a) It is the policy of the State that electric utilities
13 are required to use cost-effective energy efficiency and
14 demand-response measures to reduce delivery load. Requiring
15 investment in cost-effective energy efficiency and
16 demand-response measures will reduce direct and indirect costs
17 to consumers by decreasing environmental impacts and by
18 avoiding or delaying the need for new generation, transmission,
19 and distribution infrastructure. It serves the public interest
20 to allow electric utilities to recover costs for reasonably and
21 prudently incurred expenditures for energy efficiency and
22 demand-response measures. As used in this Section,
23 "cost-effective" means that the measures satisfy the total
24 resource cost test. The low-income measures described in
25 subsection (c) of this Section shall not be required to meet

1 the total resource cost test. For purposes of this Section, the
2 terms "energy-efficiency", "demand-response", "electric
3 utility", and "total resource cost test" have the meanings set
4 forth in the Illinois Power Agency Act.

5 (a-5) This Section applies to electric utilities serving
6 more than 500,000 retail customers in the State for those
7 multi-year plans commencing after December 31, 2017.

8 (b) For purposes of this Section, electric utilities
9 subject to this Section that serve more than 3,000,000 retail
10 customers in the State shall be deemed to have achieved a
11 cumulative persisting annual savings of 6.6% from energy
12 efficiency measures and programs implemented during the period
13 beginning January 1, 2012 and ending December 31, 2017, which
14 percent is based on the deemed average weather normalized sales
15 of electric power and energy during calendar years 2014, 2015,
16 and 2016 of 88,000,000 MWhs. For the purposes of this
17 subsection (b) and subsection (b-5), the 88,000,000 MWhs of
18 deemed electric power and energy sales shall be reduced by the
19 number of MWhs equal to the sum of the annual consumption of
20 customers that are exempt from subsections (a) through (j) of
21 this Section under subsection (l) of this Section, as averaged
22 across the calendar years 2014, 2015, and 2016. After 2017, the
23 deemed value of cumulative persisting annual savings from
24 energy efficiency measures and programs implemented during the
25 period beginning January 1, 2012 and ending December 31, 2017,
26 shall be reduced each year, as follows, and the applicable

1 value shall be applied to and count toward the utility's
2 achievement of the cumulative persisting annual savings goals
3 set forth in subsection (b-5):

4 (1) 5.8% deemed cumulative persisting annual savings
5 for the year ending December 31, 2018;

6 (2) 5.2% deemed cumulative persisting annual savings
7 for the year ending December 31, 2019;

8 (3) 4.5% deemed cumulative persisting annual savings
9 for the year ending December 31, 2020;

10 (4) 4.0% deemed cumulative persisting annual savings
11 for the year ending December 31, 2021;

12 (5) 3.5% deemed cumulative persisting annual savings
13 for the year ending December 31, 2022;

14 (6) 3.1% deemed cumulative persisting annual savings
15 for the year ending December 31, 2023;

16 (7) 2.8% deemed cumulative persisting annual savings
17 for the year ending December 31, 2024;

18 (8) 2.5% deemed cumulative persisting annual savings
19 for the year ending December 31, 2025;

20 (9) 2.3% deemed cumulative persisting annual savings
21 for the year ending December 31, 2026;

22 (10) 2.1% deemed cumulative persisting annual savings
23 for the year ending December 31, 2027;

24 (11) 1.8% deemed cumulative persisting annual savings
25 for the year ending December 31, 2028;

26 (12) 1.7% deemed cumulative persisting annual savings

1 for the year ending December 31, 2029; and

2 (13) 1.5% deemed cumulative persisting annual savings
3 for the year ending December 31, 2030.

4 For purposes of this Section, "cumulative persisting
5 annual savings" means the total electric energy savings in a
6 given year from measures installed in that year or in previous
7 years, but no earlier than January 1, 2012, that are still
8 operational and providing savings in that year because the
9 measures have not yet reached the end of their useful lives.

10 (b-5) Beginning in 2018, electric utilities subject to this
11 Section that serve more than 3,000,000 retail customers in the
12 State shall achieve the following cumulative persisting annual
13 savings goals, as modified by subsection (f) of this Section
14 and as compared to the deemed baseline of 88,000,000 MWhs of
15 electric power and energy sales set forth in subsection (b), as
16 reduced by the number of MWhs equal to the sum of the annual
17 consumption of customers that are exempt from subsections (a)
18 through (j) of this Section under subsection (l) of this
19 Section as averaged across the calendar years 2014, 2015, and
20 2016, through the implementation of energy efficiency measures
21 during the applicable year and in prior years, but no earlier
22 than January 1, 2012:

23 (1) 7.8% cumulative persisting annual savings for the
24 year ending December 31, 2018;

25 (2) 9.1% cumulative persisting annual savings for the
26 year ending December 31, 2019;

1 (3) 10.4% cumulative persisting annual savings for the
2 year ending December 31, 2020;

3 (4) 11.8% cumulative persisting annual savings for the
4 year ending December 31, 2021;

5 (5) 13.1% cumulative persisting annual savings for the
6 year ending December 31, 2022;

7 (6) 14.4% cumulative persisting annual savings for the
8 year ending December 31, 2023;

9 (7) 15.7% cumulative persisting annual savings for the
10 year ending December 31, 2024;

11 (8) 17% cumulative persisting annual savings for the
12 year ending December 31, 2025;

13 (9) 17.9% cumulative persisting annual savings for the
14 year ending December 31, 2026;

15 (10) 18.8% cumulative persisting annual savings for
16 the year ending December 31, 2027;

17 (11) 19.7% cumulative persisting annual savings for
18 the year ending December 31, 2028;

19 (12) 20.6% cumulative persisting annual savings for
20 the year ending December 31, 2029; and

21 (13) 21.5% cumulative persisting annual savings for
22 the year ending December 31, 2030.

23 (b-10) For purposes of this Section, electric utilities
24 subject to this Section that serve less than 3,000,000 retail
25 customers but more than 500,000 retail customers in the State
26 shall be deemed to have achieved a cumulative persisting annual

1 savings of 6.6% from energy efficiency measures and programs
2 implemented during the period beginning January 1, 2012 and
3 ending December 31, 2017, which is based on the deemed average
4 weather normalized sales of electric power and energy during
5 calendar years 2014, 2015, and 2016 of 36,900,000 MWhs. For the
6 purposes of this subsection (b-10) and subsection (b-15), the
7 36,900,000 MWhs of deemed electric power and energy sales shall
8 be reduced by the number of MWhs equal to the sum of the annual
9 consumption of customers that are exempt from subsections (a)
10 through (j) of this Section under subsection (1) of this
11 Section, as averaged across the calendar years 2014, 2015, and
12 2016. After 2017, the deemed value of cumulative persisting
13 annual savings from energy efficiency measures and programs
14 implemented during the period beginning January 1, 2012 and
15 ending December 31, 2017, shall be reduced each year, as
16 follows, and the applicable value shall be applied to and count
17 toward the utility's achievement of the cumulative persisting
18 annual savings goals set forth in subsection (b-15):

19 (1) 5.8% deemed cumulative persisting annual savings
20 for the year ending December 31, 2018;

21 (2) 5.2% deemed cumulative persisting annual savings
22 for the year ending December 31, 2019;

23 (3) 4.5% deemed cumulative persisting annual savings
24 for the year ending December 31, 2020;

25 (4) 4.0% deemed cumulative persisting annual savings
26 for the year ending December 31, 2021;

1 (5) 3.5% deemed cumulative persisting annual savings
2 for the year ending December 31, 2022;

3 (6) 3.1% deemed cumulative persisting annual savings
4 for the year ending December 31, 2023;

5 (7) 2.8% deemed cumulative persisting annual savings
6 for the year ending December 31, 2024;

7 (8) 2.5% deemed cumulative persisting annual savings
8 for the year ending December 31, 2025;

9 (9) 2.3% deemed cumulative persisting annual savings
10 for the year ending December 31, 2026;

11 (10) 2.1% deemed cumulative persisting annual savings
12 for the year ending December 31, 2027;

13 (11) 1.8% deemed cumulative persisting annual savings
14 for the year ending December 31, 2028;

15 (12) 1.7% deemed cumulative persisting annual savings
16 for the year ending December 31, 2029; and

17 (13) 1.5% deemed cumulative persisting annual savings
18 for the year ending December 31, 2030.

19 (b-15) Beginning in 2018, electric utilities subject to
20 this Section that serve less than 3,000,000 retail customers
21 but more than 500,000 retail customers in the State shall
22 achieve the following cumulative persisting annual savings
23 goals, as modified by subsection (b-20) and subsection (f) of
24 this Section and as compared to the deemed baseline as reduced
25 by the number of MWhs equal to the sum of the annual
26 consumption of customers that are exempt from subsections (a)

1 through (j) of this Section under subsection (1) of this
2 Section as averaged across the calendar years 2014, 2015, and
3 2016, through the implementation of energy efficiency measures
4 during the applicable year and in prior years, but no earlier
5 than January 1, 2012:

6 (1) 7.4% cumulative persisting annual savings for the
7 year ending December 31, 2018;

8 (2) 8.2% cumulative persisting annual savings for the
9 year ending December 31, 2019;

10 (3) 9.0% cumulative persisting annual savings for the
11 year ending December 31, 2020;

12 (4) 9.8% cumulative persisting annual savings for the
13 year ending December 31, 2021;

14 (5) 10.6% cumulative persisting annual savings for the
15 year ending December 31, 2022;

16 (6) 11.4% cumulative persisting annual savings for the
17 year ending December 31, 2023;

18 (7) 12.2% cumulative persisting annual savings for the
19 year ending December 31, 2024;

20 (8) 13% cumulative persisting annual savings for the
21 year ending December 31, 2025;

22 (9) 13.6% cumulative persisting annual savings for the
23 year ending December 31, 2026;

24 (10) 14.2% cumulative persisting annual savings for
25 the year ending December 31, 2027;

26 (11) 14.8% cumulative persisting annual savings for

1 the year ending December 31, 2028;

2 (12) 15.4% cumulative persisting annual savings for
3 the year ending December 31, 2029; and

4 (13) 16% cumulative persisting annual savings for the
5 year ending December 31, 2030.

6 The difference between the cumulative persisting annual
7 savings goal for the applicable calendar year and the
8 cumulative persisting annual savings goal for the immediately
9 preceding calendar year is 0.8% for the period of January 1,
10 2018 through December 31, 2025 and 0.6% for the period of
11 January 1, 2026 through December 31, 2030.

12 (b-20) Each electric utility subject to this Section may
13 include cost-effective voltage optimization measures in its
14 plans submitted under subsections (f) and (g) of this Section,
15 and the costs incurred by a utility to implement the measures
16 under a Commission-approved plan shall be recovered under the
17 provisions of Article IX or Section 16-108.5 of this Act. For
18 purposes of this Section, the measure life of voltage
19 optimization measures shall be 15 years. The measure life
20 period is independent of the depreciation rate of the voltage
21 optimization assets deployed.

22 Within 270 days after the effective date of this amendatory
23 Act of the 99th General Assembly, an electric utility that
24 serves less than 3,000,000 retail customers but more than
25 500,000 retail customers in the State shall file a plan with
26 the Commission that identifies the cost-effective voltage

1 optimization investment the electric utility plans to
2 undertake through December 31, 2024. The Commission, after
3 notice and hearing, shall approve or approve with modification
4 the plan within 120 days after the plan's filing and, in the
5 order approving or approving with modification the plan, the
6 Commission shall adjust the applicable cumulative persisting
7 annual savings goals set forth in subsection (b-15) to reflect
8 any amount of cost-effective energy savings approved by the
9 Commission that is greater than or less than the following
10 cumulative persisting annual savings values attributable to
11 voltage optimization for the applicable year:

12 (1) 0.0% of cumulative persisting annual savings for
13 the year ending December 31, 2018;

14 (2) 0.17% of cumulative persisting annual savings for
15 the year ending December 31, 2019;

16 (3) 0.17% of cumulative persisting annual savings for
17 the year ending December 31, 2020;

18 (4) 0.33% of cumulative persisting annual savings for
19 the year ending December 31, 2021;

20 (5) 0.5% of cumulative persisting annual savings for
21 the year ending December 31, 2022;

22 (6) 0.67% of cumulative persisting annual savings for
23 the year ending December 31, 2023;

24 (7) 0.83% of cumulative persisting annual savings for
25 the year ending December 31, 2024; and

26 (8) 1.0% of cumulative persisting annual savings for

1 the year ending December 31, 2025.

2 (b-25) In the event an electric utility jointly offers an
3 energy efficiency measure or program with a gas utility under
4 plans approved under this Section and Section 8-104 of this
5 Act, the electric utility may continue offering the program,
6 including the gas energy efficiency measures, in the event the
7 gas utility discontinues funding the program. In that event,
8 the energy savings value associated with such other fuels shall
9 be converted to electric energy savings on an equivalent Btu
10 basis for the premises. However, the electric utility shall
11 prioritize programs for low-income residential customers to
12 the extent practicable. An electric utility may recover the
13 costs of offering the gas energy efficiency measures under this
14 subsection (b-25).

15 For those energy efficiency measures or programs that save
16 both electricity and other fuels but are not jointly offered
17 with a gas utility under plans approved under this Section and
18 Section 8-104 or not offered with an affiliated gas utility
19 under paragraph (6) of subsection (f) of Section 8-104 of this
20 Act, the electric utility may count savings of fuels other than
21 electricity toward the achievement of its annual savings goal,
22 and the energy savings value associated with such other fuels
23 shall be converted to electric energy savings on an equivalent
24 Btu basis at the premises.

25 In no event shall more than 10% of each year's applicable
26 annual incremental goal as defined in paragraph (7) of

1 subsection (g) of this Section be met through savings of fuels
2 other than electricity.

3 (c) Electric utilities shall be responsible for overseeing
4 the design, development, and filing of energy efficiency plans
5 with the Commission and may, as part of that implementation,
6 outsource various aspects of program development and
7 implementation. A minimum of 10%, for electric utilities that
8 serve more than 3,000,000 retail customers in the State, and a
9 minimum of 7%, for electric utilities that serve less than
10 3,000,000 retail customers but more than 500,000 retail
11 customers in the State, of the utility's entire portfolio
12 funding level for a given year shall be used to procure
13 cost-effective energy efficiency measures from units of local
14 government, municipal corporations, school districts, public
15 housing, and community college districts, provided that a
16 minimum percentage of available funds shall be used to procure
17 energy efficiency from public housing, which percentage shall
18 be equal to public housing's share of public building energy
19 consumption.

20 The utilities shall also implement energy efficiency
21 measures targeted at low-income households, which, for
22 purposes of this Section, shall be defined as households at or
23 below 80% of area median income, and expenditures to implement
24 the measures shall be no less than \$25,000,000 per year for
25 electric utilities that serve more than 3,000,000 retail
26 customers in the State and no less than \$8,350,000 per year for

1 electric utilities that serve less than 3,000,000 retail
2 customers but more than 500,000 retail customers in the State.

3 Each electric utility shall assess opportunities to
4 implement cost-effective energy efficiency measures and
5 programs through a public housing authority or authorities
6 located in its service territory. If such opportunities are
7 identified, the utility shall propose such measures and
8 programs to address the opportunities. Expenditures to address
9 such opportunities shall be credited toward the minimum
10 procurement and expenditure requirements set forth in this
11 subsection (c).

12 Implementation of energy efficiency measures and programs
13 targeted at low-income households should be contracted, when it
14 is practicable, to independent third parties that have
15 demonstrated capabilities to serve such households, with a
16 preference for not-for-profit entities and government agencies
17 that have existing relationships with or experience serving
18 low-income communities in the State.

19 Each electric utility shall develop and implement
20 reporting procedures that address and assist in determining the
21 amount of energy savings that can be applied to the low-income
22 procurement and expenditure requirements set forth in this
23 subsection (c).

24 The electric utilities shall also convene a low-income
25 energy efficiency advisory committee to assist in the design
26 and evaluation of the low-income energy efficiency programs.

1 The committee shall be comprised of the electric utilities
2 subject to the requirements of this Section, the gas utilities
3 subject to the requirements of Section 8-104 of this Act, the
4 utilities' low-income energy efficiency implementation
5 contractors, and representatives of community-based
6 organizations.

7 (d) Notwithstanding any other provision of law to the
8 contrary, a utility providing approved energy efficiency
9 measures and, if applicable, demand-response measures in the
10 State shall be permitted to recover all reasonable and
11 prudently incurred costs of those measures from all retail
12 customers, except as provided in subsection (1) of this
13 Section, as follows, provided that nothing in this subsection

14 (d) permits the double recovery of such costs from customers:

15 (1) The utility may recover its costs through an
16 automatic adjustment clause tariff filed with and approved
17 by the Commission. The tariff shall be established outside
18 the context of a general rate case. Each year the
19 Commission shall initiate a review to reconcile any amounts
20 collected with the actual costs and to determine the
21 required adjustment to the annual tariff factor to match
22 annual expenditures. To enable the financing of the
23 incremental capital expenditures, including regulatory
24 assets, for electric utilities that serve less than
25 3,000,000 retail customers but more than 500,000 retail
26 customers in the State, the utility's actual year-end

1 capital structure that includes a common equity ratio,
2 excluding goodwill, of up to and including 50% of the total
3 capital structure shall be deemed reasonable and used to
4 set rates.

5 (2) A utility may recover its costs through an energy
6 efficiency formula rate approved by the Commission under a
7 filing under subsections (f) and (g) of this Section, which
8 shall specify the cost components that form the basis of
9 the rate charged to customers with sufficient specificity
10 to operate in a standardized manner and be updated annually
11 with transparent information that reflects the utility's
12 actual costs to be recovered during the applicable rate
13 year, which is the period beginning with the first billing
14 day of January and extending through the last billing day
15 of the following December. The energy efficiency formula
16 rate shall be implemented through a tariff filed with the
17 Commission under subsections (f) and (g) of this Section
18 that is consistent with the provisions of this paragraph
19 (2) and that shall be applicable to all delivery services
20 customers. The Commission shall conduct an investigation
21 of the tariff in a manner consistent with the provisions of
22 this paragraph (2), subsections (f) and (g) of this
23 Section, and the provisions of Article IX of this Act to
24 the extent they do not conflict with this paragraph (2).
25 The energy efficiency formula rate approved by the
26 Commission shall remain in effect at the discretion of the

1 utility and shall do the following:

2 (A) Provide for the recovery of the utility's
3 actual costs incurred under this Section that are
4 prudently incurred and reasonable in amount consistent
5 with Commission practice and law. The sole fact that a
6 cost differs from that incurred in a prior calendar
7 year or that an investment is different from that made
8 in a prior calendar year shall not imply the imprudence
9 or unreasonableness of that cost or investment.

10 (B) Reflect the utility's actual year-end capital
11 structure for the applicable calendar year, excluding
12 goodwill, subject to a determination of prudence and
13 reasonableness consistent with Commission practice and
14 law. To enable the financing of the incremental capital
15 expenditures, including regulatory assets, for
16 electric utilities that serve less than 3,000,000
17 retail customers but more than 500,000 retail
18 customers in the State, a participating electric
19 utility's actual year-end capital structure that
20 includes a common equity ratio, excluding goodwill, of
21 up to and including 50% of the total capital structure
22 shall be deemed reasonable and used to set rates.

23 (C) Include a cost of equity, which shall be
24 calculated as the sum of the following:

25 (i) the average for the applicable calendar
26 year of the monthly average yields of 30-year U.S.

1 Treasury bonds published by the Board of Governors
2 of the Federal Reserve System in its weekly H.15
3 Statistical Release or successor publication; and
4 (ii) 580 basis points.

5 At such time as the Board of Governors of the
6 Federal Reserve System ceases to include the monthly
7 average yields of 30-year U.S. Treasury bonds in its
8 weekly H.15 Statistical Release or successor
9 publication, the monthly average yields of the U.S.
10 Treasury bonds then having the longest duration
11 published by the Board of Governors in its weekly H.15
12 Statistical Release or successor publication shall
13 instead be used for purposes of this paragraph (2).

14 (D) Permit and set forth protocols, subject to a
15 determination of prudence and reasonableness
16 consistent with Commission practice and law, for the
17 following:

18 (i) recovery of incentive compensation expense
19 that is based on the achievement of operational
20 metrics, including metrics related to budget
21 controls, outage duration and frequency, safety,
22 customer service, efficiency and productivity, and
23 environmental compliance; however, this protocol
24 shall not apply if such expense related to costs
25 incurred under this Section is recovered under
26 Article IX or Section 16-108.5 of this Act;

1 incentive compensation expense that is based on
2 net income or an affiliate's earnings per share
3 shall not be recoverable under the energy
4 efficiency formula rate;

5 (ii) recovery of pension and other
6 post-employment benefits expense, provided that
7 such costs are supported by an actuarial study;
8 however, this protocol shall not apply if such
9 expense related to costs incurred under this
10 Section is recovered under Article IX or Section
11 16-108.5 of this Act;

12 (iii) recovery of existing regulatory assets
13 over the periods previously authorized by the
14 Commission;

15 (iv) as described in subsection (e),
16 amortization of costs incurred under this Section;
17 and

18 (v) projected, weather normalized billing
19 determinants for the applicable rate year.

20 (E) Provide for an annual reconciliation, as
21 described in paragraph (3) of this subsection (d), less
22 any deferred taxes related to the reconciliation, with
23 interest at an annual rate of return equal to the
24 utility's weighted average cost of capital, including
25 a revenue conversion factor calculated to recover or
26 refund all additional income taxes that may be payable

1 or receivable as a result of that return, of the energy
2 efficiency revenue requirement reflected in rates for
3 each calendar year, beginning with the calendar year in
4 which the utility files its energy efficiency formula
5 rate tariff under this paragraph (2), with what the
6 revenue requirement would have been had the actual cost
7 information for the applicable calendar year been
8 available at the filing date.

9 The utility shall file, together with its tariff, the
10 projected costs to be incurred by the utility during the
11 rate year under the utility's multi-year plan approved
12 under subsections (f) and (g) of this Section, including,
13 but not limited to, the projected capital investment costs
14 and projected regulatory asset balances with
15 correspondingly updated depreciation and amortization
16 reserves and expense, that shall populate the energy
17 efficiency formula rate and set the initial rates under the
18 formula.

19 The Commission shall review the proposed tariff in
20 conjunction with its review of a proposed multi-year plan,
21 as specified in paragraph (5) of subsection (g) of this
22 Section. The review shall be based on the same evidentiary
23 standards, including, but not limited to, those concerning
24 the prudence and reasonableness of the costs incurred by
25 the utility, the Commission applies in a hearing to review
26 a filing for a general increase in rates under Article IX

1 of this Act. The initial rates shall take effect beginning
2 with the January monthly billing period following the
3 Commission's approval.

4 The tariff's rate design and cost allocation across
5 customer classes shall be consistent with the utility's
6 automatic adjustment clause tariff in effect on the
7 effective date of this amendatory Act of the 99th General
8 Assembly; however, the Commission may revise the tariff's
9 rate design and cost allocation in subsequent proceedings
10 under paragraph (3) of this subsection (d).

11 If the energy efficiency formula rate is terminated,
12 the then current rates shall remain in effect until such
13 time as the energy efficiency costs are incorporated into
14 new rates that are set under this subsection (d) or Article
15 IX of this Act, subject to retroactive rate adjustment,
16 with interest, to reconcile rates charged with actual
17 costs.

18 (3) The provisions of this paragraph (3) shall only
19 apply to an electric utility that has elected to file an
20 energy efficiency formula rate under paragraph (2) of this
21 subsection (d). Subsequent to the Commission's issuance of
22 an order approving the utility's energy efficiency formula
23 rate structure and protocols, and initial rates under
24 paragraph (2) of this subsection (d), the utility shall
25 file, on or before June 1 of each year, with the Chief
26 Clerk of the Commission its updated cost inputs to the

1 energy efficiency formula rate for the applicable rate year
2 and the corresponding new charges, as well as the
3 information described in paragraph (9) of subsection (g) of
4 this Section. Each such filing shall conform to the
5 following requirements and include the following
6 information:

7 (A) The inputs to the energy efficiency formula
8 rate for the applicable rate year shall be based on the
9 projected costs to be incurred by the utility during
10 the rate year under the utility's multi-year plan
11 approved under subsections (f) and (g) of this Section,
12 including, but not limited to, projected capital
13 investment costs and projected regulatory asset
14 balances with correspondingly updated depreciation and
15 amortization reserves and expense. The filing shall
16 also include a reconciliation of the energy efficiency
17 revenue requirement that was in effect for the prior
18 rate year (as set by the cost inputs for the prior rate
19 year) with the actual revenue requirement for the prior
20 rate year (determined using a year-end rate base) that
21 uses amounts reflected in the applicable FERC Form 1
22 that reports the actual costs for the prior rate year.
23 Any over-collection or under-collection indicated by
24 such reconciliation shall be reflected as a credit
25 against, or recovered as an additional charge to,
26 respectively, with interest calculated at a rate equal

1 to the utility's weighted average cost of capital
2 approved by the Commission for the prior rate year, the
3 charges for the applicable rate year. Such
4 over-collection or under-collection shall be adjusted
5 to remove any deferred taxes related to the
6 reconciliation, for purposes of calculating interest
7 at an annual rate of return equal to the utility's
8 weighted average cost of capital approved by the
9 Commission for the prior rate year, including a revenue
10 conversion factor calculated to recover or refund all
11 additional income taxes that may be payable or
12 receivable as a result of that return. Each
13 reconciliation shall be certified by the participating
14 utility in the same manner that FERC Form 1 is
15 certified. The filing shall also include the charge or
16 credit, if any, resulting from the calculation
17 required by subparagraph (E) of paragraph (2) of this
18 subsection (d).

19 Notwithstanding any other provision of law to the
20 contrary, the intent of the reconciliation is to
21 ultimately reconcile both the revenue requirement
22 reflected in rates for each calendar year, beginning
23 with the calendar year in which the utility files its
24 energy efficiency formula rate tariff under paragraph
25 (2) of this subsection (d), with what the revenue
26 requirement determined using a year-end rate base for

1 the applicable calendar year would have been had the
2 actual cost information for the applicable calendar
3 year been available at the filing date.

4 For purposes of this Section, "FERC Form 1" means
5 the Annual Report of Major Electric Utilities,
6 Licensees and Others that electric utilities are
7 required to file with the Federal Energy Regulatory
8 Commission under the Federal Power Act, Sections 3,
9 4(a), 304 and 209, modified as necessary to be
10 consistent with 83 Ill. Admin. Code Part 415 as of May
11 1, 2011. Nothing in this Section is intended to allow
12 costs that are not otherwise recoverable to be
13 recoverable by virtue of inclusion in FERC Form 1.

14 (B) The new charges shall take effect beginning on
15 the first billing day of the following January billing
16 period and remain in effect through the last billing
17 day of the next December billing period regardless of
18 whether the Commission enters upon a hearing under this
19 paragraph (3).

20 (C) The filing shall include relevant and
21 necessary data and documentation for the applicable
22 rate year. Normalization adjustments shall not be
23 required.

24 Within 45 days after the utility files its annual
25 update of cost inputs to the energy efficiency formula
26 rate, the Commission shall with reasonable notice,

1 initiate a proceeding concerning whether the projected
2 costs to be incurred by the utility and recovered during
3 the applicable rate year, and that are reflected in the
4 inputs to the energy efficiency formula rate, are
5 consistent with the utility's approved multi-year plan
6 under subsections (f) and (g) of this Section and whether
7 the costs incurred by the utility during the prior rate
8 year were prudent and reasonable. The Commission shall also
9 have the authority to investigate the information and data
10 described in paragraph (9) of subsection (g) of this
11 Section, including the proposed adjustment to the
12 utility's return on equity component of its weighted
13 average cost of capital. During the course of the
14 proceeding, each objection shall be stated with
15 particularity and evidence provided in support thereof,
16 after which the utility shall have the opportunity to rebut
17 the evidence. Discovery shall be allowed consistent with
18 the Commission's Rules of Practice, which Rules of Practice
19 shall be enforced by the Commission or the assigned
20 administrative law judge ~~hearing examiner~~. The Commission
21 shall apply the same evidentiary standards, including, but
22 not limited to, those concerning the prudence and
23 reasonableness of the costs incurred by the utility, during
24 the proceeding as it would apply in a proceeding to review
25 a filing for a general increase in rates under Article IX
26 of this Act. The Commission shall not, however, have the

1 authority in a proceeding under this paragraph (3) to
2 consider or order any changes to the structure or protocols
3 of the energy efficiency formula rate approved under
4 paragraph (2) of this subsection (d). In a proceeding under
5 this paragraph (3), the Commission shall enter its order no
6 later than the earlier of 195 days after the utility's
7 filing of its annual update of cost inputs to the energy
8 efficiency formula rate or December 15. The utility's
9 proposed return on equity calculation, as described in
10 paragraphs (7) through (9) of subsection (g) of this
11 Section, shall be deemed the final, approved calculation on
12 December 15 of the year in which it is filed unless the
13 Commission enters an order on or before December 15, after
14 notice and hearing, that modifies such calculation
15 consistent with this Section. The Commission's
16 determinations of the prudence and reasonableness of the
17 costs incurred, and determination of such return on equity
18 calculation, for the applicable calendar year shall be
19 final upon entry of the Commission's order and shall not be
20 subject to reopening, reexamination, or collateral attack
21 in any other Commission proceeding, case, docket, order,
22 rule, or regulation; however, nothing in this paragraph (3)
23 shall prohibit a party from petitioning the Commission to
24 rehear or appeal to the courts the order under the
25 provisions of this Act.

26 (e) Beginning on the effective date of this amendatory Act

1 of the 99th General Assembly, a utility subject to the
2 requirements of this Section may elect to defer, as a
3 regulatory asset, up to the full amount of its expenditures
4 incurred under this Section for each annual period, including,
5 but not limited to, any expenditures incurred above the funding
6 level set by subsection (f) of this Section for a given year.
7 The total expenditures deferred as a regulatory asset in a
8 given year shall be amortized and recovered over a period that
9 is equal to the weighted average of the energy efficiency
10 measure lives implemented for that year that are reflected in
11 the regulatory asset. The unamortized balance shall be
12 recognized as of December 31 for a given year. The utility
13 shall also earn a return on the total of the unamortized
14 balances of all of the energy efficiency regulatory assets,
15 less any deferred taxes related to those unamortized balances,
16 at an annual rate equal to the utility's weighted average cost
17 of capital that includes, based on a year-end capital
18 structure, the utility's actual cost of debt for the applicable
19 calendar year and a cost of equity, which shall be calculated
20 as the sum of the (i) the average for the applicable calendar
21 year of the monthly average yields of 30-year U.S. Treasury
22 bonds published by the Board of Governors of the Federal
23 Reserve System in its weekly H.15 Statistical Release or
24 successor publication; and (ii) 580 basis points, including a
25 revenue conversion factor calculated to recover or refund all
26 additional income taxes that may be payable or receivable as a

1 result of that return. Capital investment costs shall be
2 depreciated and recovered over their useful lives consistent
3 with generally accepted accounting principles. The weighted
4 average cost of capital shall be applied to the capital
5 investment cost balance, less any accumulated depreciation and
6 accumulated deferred income taxes, as of December 31 for a
7 given year.

8 When an electric utility creates a regulatory asset under
9 the provisions of this Section, the costs are recovered over a
10 period during which customers also receive a benefit which is
11 in the public interest. Accordingly, it is the intent of the
12 General Assembly that an electric utility that elects to create
13 a regulatory asset under the provisions of this Section shall
14 recover all of the associated costs as set forth in this
15 Section. After the Commission has approved the prudence and
16 reasonableness of the costs that comprise the regulatory asset,
17 the electric utility shall be permitted to recover all such
18 costs, and the value and recoverability through rates of the
19 associated regulatory asset shall not be limited, altered,
20 impaired, or reduced.

21 (f) Beginning in 2017, each electric utility shall file an
22 energy efficiency plan with the Commission to meet the energy
23 efficiency standards for the next applicable multi-year period
24 beginning January 1 of the year following the filing, according
25 to the schedule set forth in paragraphs (1) through (3) of this
26 subsection (f). If a utility does not file such a plan on or

1 before the applicable filing deadline for the plan, it shall
2 face a penalty of \$100,000 per day until the plan is filed.

3 (1) No later than 30 days after the effective date of
4 this amendatory Act of the 99th General Assembly or May 1,
5 2017, whichever is later, each electric utility shall file
6 a 4-year energy efficiency plan commencing on January 1,
7 2018 that is designed to achieve the cumulative persisting
8 annual savings goals specified in paragraphs (1) through
9 (4) of subsection (b-5) of this Section or in paragraphs
10 (1) through (4) of subsection (b-15) of this Section, as
11 applicable, through implementation of energy efficiency
12 measures; however, the goals may be reduced if the
13 utility's expenditures are limited pursuant to subsection
14 (m) of this Section or, for a utility that serves less than
15 3,000,000 retail customers, if each of the following
16 conditions are met: (A) the plan's analysis and forecasts
17 of the utility's ability to acquire energy savings
18 demonstrate that achievement of such goals is not cost
19 effective; and (B) the amount of energy savings achieved by
20 the utility as determined by the independent evaluator for
21 the most recent year for which savings have been evaluated
22 preceding the plan filing was less than the average annual
23 amount of savings required to achieve the goals for the
24 applicable 4-year plan period. Except as provided in
25 subsection (m) of this Section, annual increases in
26 cumulative persisting annual savings goals during the

1 applicable 4-year plan period shall not be reduced to
2 amounts that are less than the maximum amount of cumulative
3 persisting annual savings that is forecast to be
4 cost-effectively achievable during the 4-year plan period.
5 The Commission shall review any proposed goal reduction as
6 part of its review and approval of the utility's proposed
7 plan.

8 (2) No later than March 1, 2021, each electric utility
9 shall file a 4-year energy efficiency plan commencing on
10 January 1, 2022 that is designed to achieve the cumulative
11 persisting annual savings goals specified in paragraphs
12 (5) through (8) of subsection (b-5) of this Section or in
13 paragraphs (5) through (8) of subsection (b-15) of this
14 Section, as applicable, through implementation of energy
15 efficiency measures; however, the goals may be reduced if
16 the utility's expenditures are limited pursuant to
17 subsection (m) of this Section or, each of the following
18 conditions are met: (A) the plan's analysis and forecasts
19 of the utility's ability to acquire energy savings
20 demonstrate that achievement of such goals is not cost
21 effective; and (B) the amount of energy savings achieved by
22 the utility as determined by the independent evaluator for
23 the most recent year for which savings have been evaluated
24 preceding the plan filing was less than the average annual
25 amount of savings required to achieve the goals for the
26 applicable 4-year plan period. Except as provided in

1 subsection (m) of this Section, annual increases in
2 cumulative persisting annual savings goals during the
3 applicable 4-year plan period shall not be reduced to
4 amounts that are less than the maximum amount of cumulative
5 persisting annual savings that is forecast to be
6 cost-effectively achievable during the 4-year plan period.
7 The Commission shall review any proposed goal reduction as
8 part of its review and approval of the utility's proposed
9 plan.

10 (3) No later than March 1, 2025, each electric utility
11 shall file a 5-year energy efficiency plan commencing on
12 January 1, 2026 that is designed to achieve the cumulative
13 persisting annual savings goals specified in paragraphs
14 (9) through (13) of subsection (b-5) of this Section or in
15 paragraphs (9) through (13) of subsection (b-15) of this
16 Section, as applicable, through implementation of energy
17 efficiency measures; however, the goals may be reduced if
18 the utility's expenditures are limited pursuant to
19 subsection (m) of this Section or, each of the following
20 conditions are met: (A) the plan's analysis and forecasts
21 of the utility's ability to acquire energy savings
22 demonstrate that achievement of such goals is not cost
23 effective; and (B) the amount of energy savings achieved by
24 the utility as determined by the independent evaluator for
25 the most recent year for which savings have been evaluated
26 preceding the plan filing was less than the average annual

1 amount of savings required to achieve the goals for the
2 applicable 5-year plan period. Except as provided in
3 subsection (m) of this Section, annual increases in
4 cumulative persisting annual savings goals during the
5 applicable 5-year plan period shall not be reduced to
6 amounts that are less than the maximum amount of cumulative
7 persisting annual savings that is forecast to be
8 cost-effectively achievable during the 5-year plan period.
9 The Commission shall review any proposed goal reduction as
10 part of its review and approval of the utility's proposed
11 plan.

12 Each utility's plan shall set forth the utility's proposals
13 to meet the energy efficiency standards identified in
14 subsection (b-5) or (b-15), as applicable and as such standards
15 may have been modified under this subsection (f), taking into
16 account the unique circumstances of the utility's service
17 territory. For those plans commencing on January 1, 2018, the
18 Commission shall seek public comment on the utility's plan and
19 shall issue an order approving or disapproving each plan no
20 later than August 31, 2017, or 105 days after the effective
21 date of this amendatory Act of the 99th General Assembly,
22 whichever is later. For those plans commencing after December
23 31, 2021, the Commission shall seek public comment on the
24 utility's plan and shall issue an order approving or
25 disapproving each plan within 6 months after its submission. If
26 the Commission disapproves a plan, the Commission shall, within

1 30 days, describe in detail the reasons for the disapproval and
2 describe a path by which the utility may file a revised draft
3 of the plan to address the Commission's concerns
4 satisfactorily. If the utility does not refile with the
5 Commission within 60 days, the utility shall be subject to
6 penalties at a rate of \$100,000 per day until the plan is
7 filed. This process shall continue, and penalties shall accrue,
8 until the utility has successfully filed a portfolio of energy
9 efficiency and demand-response measures. Penalties shall be
10 deposited into the Energy Efficiency Trust Fund.

11 (g) In submitting proposed plans and funding levels under
12 subsection (f) of this Section to meet the savings goals
13 identified in subsection (b-5) or (b-15) of this Section, as
14 applicable, the utility shall:

15 (1) Demonstrate that its proposed energy efficiency
16 measures will achieve the applicable requirements that are
17 identified in subsection (b-5) or (b-15) of this Section,
18 as modified by subsection (f) of this Section.

19 (2) Present specific proposals to implement new
20 building and appliance standards that have been placed into
21 effect.

22 (3) Demonstrate that its overall portfolio of
23 measures, not including low-income programs described in
24 subsection (c) of this Section, is cost-effective using the
25 total resource cost test or complies with paragraphs (1)
26 through (3) of subsection (f) of this Section and

1 represents a diverse cross-section of opportunities for
2 customers of all rate classes, other than those customers
3 described in subsection (1) of this Section, to participate
4 in the programs. Individual measures need not be cost
5 effective.

6 (4) Present a third-party energy efficiency
7 implementation program subject to the following
8 requirements:

9 (A) beginning with the year commencing January 1,
10 2019, electric utilities that serve more than
11 3,000,000 retail customers in the State shall fund
12 third-party energy efficiency programs in an amount
13 that is no less than \$25,000,000 per year, and electric
14 utilities that serve less than 3,000,000 retail
15 customers but more than 500,000 retail customers in the
16 State shall fund third-party energy efficiency
17 programs in an amount that is no less than \$8,350,000
18 per year;

19 (B) during 2018, the utility shall conduct a
20 solicitation process for purposes of requesting
21 proposals from third-party vendors for those
22 third-party energy efficiency programs to be offered
23 during one or more of the years commencing January 1,
24 2019, January 1, 2020, and January 1, 2021; for those
25 multi-year plans commencing on January 1, 2022 and
26 January 1, 2026, the utility shall conduct a

1 solicitation process during 2021 and 2025,
2 respectively, for purposes of requesting proposals
3 from third-party vendors for those third-party energy
4 efficiency programs to be offered during one or more
5 years of the respective multi-year plan period; for
6 each solicitation process, the utility shall identify
7 the sector, technology, or geographical area for which
8 it is seeking requests for proposals;

9 (C) the utility shall propose the bidder
10 qualifications, performance measurement process, and
11 contract structure, which must include a performance
12 payment mechanism and general terms and conditions;
13 the proposed qualifications, process, and structure
14 shall be subject to Commission approval; and

15 (D) the utility shall retain an independent third
16 party to score the proposals received through the
17 solicitation process described in this paragraph (4),
18 rank them according to their cost per lifetime
19 kilowatt-hours saved, and assemble the portfolio of
20 third-party programs.

21 The electric utility shall recover all costs
22 associated with Commission-approved, third-party
23 administered programs regardless of the success of those
24 programs.

25 (4.5) Implement cost-effective demand-response measures
26 to reduce peak demand by 0.1% over the prior year for

1 eligible retail customers, as defined in Section 16-111.5
2 of this Act, and for customers that elect hourly service
3 from the utility pursuant to Section 16-107 of this Act,
4 provided those customers have not been declared
5 competitive. This requirement continues until December 31,
6 2026.

7 (5) Include a proposed or revised cost-recovery tariff
8 mechanism, as provided for under subsection (d) of this
9 Section, to fund the proposed energy efficiency and
10 demand-response measures and to ensure the recovery of the
11 prudently and reasonably incurred costs of
12 Commission-approved programs.

13 (6) Provide for an annual independent evaluation of the
14 performance of the cost-effectiveness of the utility's
15 portfolio of measures, as well as a full review of the
16 multi-year plan results of the broader net program impacts
17 and, to the extent practical, for adjustment of the
18 measures on a going-forward basis as a result of the
19 evaluations. The resources dedicated to evaluation shall
20 not exceed 3% of portfolio resources in any given year.

21 (7) For electric utilities that serve more than
22 3,000,000 retail customers in the State:

23 (A) Through December 31, 2025, provide for an
24 adjustment to the return on equity component of the
25 utility's weighted average cost of capital calculated
26 under subsection (d) of this Section:

1 (i) If the independent evaluator determines
2 that the utility achieved a cumulative persisting
3 annual savings that is less than the applicable
4 annual incremental goal, then the return on equity
5 component shall be reduced by a maximum of 200
6 basis points in the event that the utility achieved
7 no more than 75% of such goal. If the utility
8 achieved more than 75% of the applicable annual
9 incremental goal but less than 100% of such goal,
10 then the return on equity component shall be
11 reduced by 8 basis points for each percent by which
12 the utility failed to achieve the goal.

13 (ii) If the independent evaluator determines
14 that the utility achieved a cumulative persisting
15 annual savings that is more than the applicable
16 annual incremental goal, then the return on equity
17 component shall be increased by a maximum of 200
18 basis points in the event that the utility achieved
19 at least 125% of such goal. If the utility achieved
20 more than 100% of the applicable annual
21 incremental goal but less than 125% of such goal,
22 then the return on equity component shall be
23 increased by 8 basis points for each percent by
24 which the utility achieved above the goal. If the
25 applicable annual incremental goal was reduced
26 under paragraphs (1) or (2) of subsection (f) of

1 this Section, then the following adjustments shall
2 be made to the calculations described in this item
3 (ii):

4 (aa) the calculation for determining
5 achievement that is at least 125% of the
6 applicable annual incremental goal shall use
7 the unreduced applicable annual incremental
8 goal to set the value; and

9 (bb) the calculation for determining
10 achievement that is less than 125% but more
11 than 100% of the applicable annual incremental
12 goal shall use the reduced applicable annual
13 incremental goal to set the value for 100%
14 achievement of the goal and shall use the
15 unreduced goal to set the value for 125%
16 achievement. The 8 basis point value shall also
17 be modified, as necessary, so that the 200
18 basis points are evenly apportioned among each
19 percentage point value between 100% and 125%
20 achievement.

21 (B) For the period January 1, 2026 through December
22 31, 2030, provide for an adjustment to the return on
23 equity component of the utility's weighted average
24 cost of capital calculated under subsection (d) of this
25 Section:

26 (i) If the independent evaluator determines

1 that the utility achieved a cumulative persisting
2 annual savings that is less than the applicable
3 annual incremental goal, then the return on equity
4 component shall be reduced by a maximum of 200
5 basis points in the event that the utility achieved
6 no more than 66% of such goal. If the utility
7 achieved more than 66% of the applicable annual
8 incremental goal but less than 100% of such goal,
9 then the return on equity component shall be
10 reduced by 6 basis points for each percent by which
11 the utility failed to achieve the goal.

12 (ii) If the independent evaluator determines
13 that the utility achieved a cumulative persisting
14 annual savings that is more than the applicable
15 annual incremental goal, then the return on equity
16 component shall be increased by a maximum of 200
17 basis points in the event that the utility achieved
18 at least 134% of such goal. If the utility achieved
19 more than 100% of the applicable annual
20 incremental goal but less than 134% of such goal,
21 then the return on equity component shall be
22 increased by 6 basis points for each percent by
23 which the utility achieved above the goal. If the
24 applicable annual incremental goal was reduced
25 under paragraph (3) of subsection (f) of this
26 Section, then the following adjustments shall be

1 made to the calculations described in this item

2 (ii):

3 (aa) the calculation for determining
4 achievement that is at least 134% of the
5 applicable annual incremental goal shall use
6 the unreduced applicable annual incremental
7 goal to set the value; and

8 (bb) the calculation for determining
9 achievement that is less than 134% but more
10 than 100% of the applicable annual incremental
11 goal shall use the reduced applicable annual
12 incremental goal to set the value for 100%
13 achievement of the goal and shall use the
14 unreduced goal to set the value for 134%
15 achievement. The 6 basis point value shall also
16 be modified, as necessary, so that the 200
17 basis points are evenly apportioned among each
18 percentage point value between 100% and 134%
19 achievement.

20 (7.5) For purposes of this Section, the term
21 "applicable annual incremental goal" means the difference
22 between the cumulative persisting annual savings goal for
23 the calendar year that is the subject of the independent
24 evaluator's determination and the cumulative persisting
25 annual savings goal for the immediately preceding calendar
26 year, as such goals are defined in subsections (b-5) and

1 (b-15) of this Section and as these goals may have been
2 modified as provided for under subsection (b-20) and
3 paragraphs (1) through (3) of subsection (f) of this
4 Section. Under subsections (b), (b-5), (b-10), and (b-15)
5 of this Section, a utility must first replace energy
6 savings from measures that have reached the end of their
7 measure lives and would otherwise have to be replaced to
8 meet the applicable savings goals identified in subsection
9 (b-5) or (b-15) of this Section before any progress towards
10 achievement of its applicable annual incremental goal may
11 be counted. Notwithstanding anything else set forth in this
12 Section, the difference between the actual annual
13 incremental savings achieved in any given year, including
14 the replacement of energy savings from measures that have
15 expired, and the applicable annual incremental goal shall
16 not affect adjustments to the return on equity for
17 subsequent calendar years under this subsection (g).

18 (8) For electric utilities that serve less than
19 3,000,000 retail customers but more than 500,000 retail
20 customers in the State:

21 (A) Through December 31, 2025, the applicable
22 annual incremental goal shall be compared to the annual
23 incremental savings as determined by the independent
24 evaluator.

25 (i) The return on equity component shall be
26 reduced by 8 basis points for each percent by which

1 the utility did not achieve 84.4% of the applicable
2 annual incremental goal.

3 (ii) The return on equity component shall be
4 increased by 8 basis points for each percent by
5 which the utility exceeded 100% of the applicable
6 annual incremental goal.

7 (iii) The return on equity component shall not
8 be increased or decreased if the annual
9 incremental savings as determined by the
10 independent evaluator is greater than 84.4% of the
11 applicable annual incremental goal and less than
12 100% of the applicable annual incremental goal.

13 (iv) The return on equity component shall not
14 be increased or decreased by an amount greater than
15 200 basis points pursuant to this subparagraph
16 (A).

17 (B) For the period of January 1, 2026 through
18 December 31, 2030, the applicable annual incremental
19 goal shall be compared to the annual incremental
20 savings as determined by the independent evaluator.

21 (i) The return on equity component shall be
22 reduced by 6 basis points for each percent by which
23 the utility did not achieve 100% of the applicable
24 annual incremental goal.

25 (ii) The return on equity component shall be
26 increased by 6 basis points for each percent by

1 which the utility exceeded 100% of the applicable
2 annual incremental goal.

3 (iii) The return on equity component shall not
4 be increased or decreased by an amount greater than
5 200 basis points pursuant to this subparagraph
6 (B).

7 (C) If the applicable annual incremental goal was
8 reduced under paragraphs (1), (2) or (3) of subsection
9 (f) of this Section, then the following adjustments
10 shall be made to the calculations described in
11 subparagraphs (A) and (B) of this paragraph (8):

12 (i) The calculation for determining
13 achievement that is at least 125% or 134%, as
14 applicable, of the applicable annual incremental
15 goal shall use the unreduced applicable annual
16 incremental goal to set the value.

17 (ii) For the period through December 31, 2025,
18 the calculation for determining achievement that
19 is less than 125% but more than 100% of the
20 applicable annual incremental goal shall use the
21 reduced applicable annual incremental goal to set
22 the value for 100% achievement of the goal and
23 shall use the unreduced goal to set the value for
24 125% achievement. The 8 basis point value shall
25 also be modified, as necessary, so that the 200
26 basis points are evenly apportioned among each

1 percentage point value between 100% and 125%
2 achievement.

3 (iii) For the period of January 1, 2026 through
4 December 31, 2030, the calculation for determining
5 achievement that is less than 134% but more than
6 100% of the applicable annual incremental goal
7 shall use the reduced applicable annual
8 incremental goal to set the value for 100%
9 achievement of the goal and shall use the unreduced
10 goal to set the value for 125% achievement. The 6
11 basis point value shall also be modified, as
12 necessary, so that the 200 basis points are evenly
13 apportioned among each percentage point value
14 between 100% and 134% achievement.

15 (9) The utility shall submit the energy savings data to
16 the independent evaluator no later than 30 days after the
17 close of the plan year. The independent evaluator shall
18 determine the cumulative persisting annual savings for a
19 given plan year no later than 120 days after the close of
20 the plan year. The utility shall submit an informational
21 filing to the Commission no later than 160 days after the
22 close of the plan year that attaches the independent
23 evaluator's final report identifying the cumulative
24 persisting annual savings for the year and calculates,
25 under paragraph (7) or (8) of this subsection (g), as
26 applicable, any resulting change to the utility's return on

1 equity component of the weighted average cost of capital
2 applicable to the next plan year beginning with the January
3 monthly billing period and extending through the December
4 monthly billing period. However, if the utility recovers
5 the costs incurred under this Section under paragraphs (2)
6 and (3) of subsection (d) of this Section, then the utility
7 shall not be required to submit such informational filing,
8 and shall instead submit the information that would
9 otherwise be included in the informational filing as part
10 of its filing under paragraph (3) of such subsection (d)
11 that is due on or before June 1 of each year.

12 For those utilities that must submit the informational
13 filing, the Commission may, on its own motion or by
14 petition, initiate an investigation of such filing,
15 provided, however, that the utility's proposed return on
16 equity calculation shall be deemed the final, approved
17 calculation on December 15 of the year in which it is filed
18 unless the Commission enters an order on or before December
19 15, after notice and hearing, that modifies such
20 calculation consistent with this Section.

21 The adjustments to the return on equity component
22 described in paragraphs (7) and (8) of this subsection (g)
23 shall be applied as described in such paragraphs through a
24 separate tariff mechanism, which shall be filed by the
25 utility under subsections (f) and (g) of this Section.

26 (h) No more than 6% of energy efficiency and

1 demand-response program revenue may be allocated for research,
2 development, or pilot deployment of new equipment or measures.

3 (i) When practicable, electric utilities shall incorporate
4 advanced metering infrastructure data into the planning,
5 implementation, and evaluation of energy efficiency measures
6 and programs, subject to the data privacy and confidentiality
7 protections of applicable law.

8 (j) The independent evaluator shall follow the guidelines
9 and use the savings set forth in Commission-approved energy
10 efficiency policy manuals and technical reference manuals, as
11 each may be updated from time to time. Until such time as
12 measure life values for energy efficiency measures implemented
13 for low-income households under subsection (c) of this Section
14 are incorporated into such Commission-approved manuals, the
15 low-income measures shall have the same measure life values
16 that are established for same measures implemented in
17 households that are not low-income households.

18 (k) Notwithstanding any provision of law to the contrary,
19 an electric utility subject to the requirements of this Section
20 may file a tariff cancelling an automatic adjustment clause
21 tariff in effect under this Section or Section 8-103, which
22 shall take effect no later than one business day after the date
23 such tariff is filed. Thereafter, the utility shall be
24 authorized to defer and recover its expenditures incurred under
25 this Section through a new tariff authorized under subsection
26 (d) of this Section or in the utility's next rate case under

1 Article IX or Section 16-108.5 of this Act, with interest at an
2 annual rate equal to the utility's weighted average cost of
3 capital as approved by the Commission in such case. If the
4 utility elects to file a new tariff under subsection (d) of
5 this Section, the utility may file the tariff within 10 days
6 after the effective date of this amendatory Act of the 99th
7 General Assembly, and the cost inputs to such tariff shall be
8 based on the projected costs to be incurred by the utility
9 during the calendar year in which the new tariff is filed and
10 that were not recovered under the tariff that was cancelled as
11 provided for in this subsection. Such costs shall include those
12 incurred or to be incurred by the utility under its multi-year
13 plan approved under subsections (f) and (g) of this Section,
14 including, but not limited to, projected capital investment
15 costs and projected regulatory asset balances with
16 correspondingly updated depreciation and amortization reserves
17 and expense. The Commission shall, after notice and hearing,
18 approve, or approve with modification, such tariff and cost
19 inputs no later than 75 days after the utility filed the
20 tariff, provided that such approval, or approval with
21 modification, shall be consistent with the provisions of this
22 Section to the extent they do not conflict with this subsection
23 (k). The tariff approved by the Commission shall take effect no
24 later than 5 days after the Commission enters its order
25 approving the tariff.

26 No later than 60 days after the effective date of the

1 tariff cancelling the utility's automatic adjustment clause
2 tariff, the utility shall file a reconciliation that reconciles
3 the moneys collected under its automatic adjustment clause
4 tariff with the costs incurred during the period beginning June
5 1, 2016 and ending on the date that the electric utility's
6 automatic adjustment clause tariff was cancelled. In the event
7 the reconciliation reflects an under-collection, the utility
8 shall recover the costs as specified in this subsection (k). If
9 the reconciliation reflects an over-collection, the utility
10 shall apply the amount of such over-collection as a one-time
11 credit to retail customers' bills.

12 (l) For the calendar years covered by a multi-year plan
13 commencing after December 31, 2017, subsections (a) through (j)
14 of this Section do not apply to any retail customers of an
15 electric utility that serves more than 3,000,000 retail
16 customers in the State and whose total highest 30 minute demand
17 was more than 10,000 kilowatts, or any retail customers of an
18 electric utility that serves less than 3,000,000 retail
19 customers but more than 500,000 retail customers in the State
20 and whose total highest 15 minute demand was more than 10,000
21 kilowatts. For purposes of this subsection (l), "retail
22 customer" has the meaning set forth in Section 16-102 of this
23 Act. A determination of whether this subsection is applicable
24 to a customer shall be made for each multi-year plan beginning
25 after December 31, 2017. The criteria for determining whether
26 this subsection (l) is applicable to a retail customer shall be

1 based on the 12 consecutive billing periods prior to the start
2 of the first year of each such multi-year plan.

3 (m) Notwithstanding the requirements of this Section, as
4 part of a proceeding to approve a multi-year plan under
5 subsections (f) and (g) of this Section, the Commission shall
6 reduce the amount of energy efficiency measures implemented for
7 any single year, and whose costs are recovered under subsection
8 (d) of this Section, by an amount necessary to limit the
9 estimated average net increase due to the cost of the measures
10 to no more than

11 (1) 3.5% for the each of the 4 years beginning January
12 1, 2018,

13 (2) 3.75% for each of the 4 years beginning January 1,
14 2022, and

15 (3) 4% for each of the 5 years beginning January 1,
16 2026,

17 of the average amount paid per kilowatthour by residential
18 eligible retail customers during calendar year 2015. To
19 determine the total amount that may be spent by an electric
20 utility in any single year, the applicable percentage of the
21 average amount paid per kilowatthour shall be multiplied by the
22 total amount of energy delivered by such electric utility in
23 the calendar year 2015, adjusted to reflect the proportion of
24 the utility's load attributable to customers who are exempt
25 from subsections (a) through (j) of this Section under
26 subsection (l) of this Section. For purposes of this subsection

1 (m), the amount paid per kilowatthour includes, without
2 limitation, estimated amounts paid for supply, transmission,
3 distribution, surcharges, and add-on taxes. For purposes of
4 this Section, "eligible retail customers" shall have the
5 meaning set forth in Section 16-111.5 of this Act. Once the
6 Commission has approved a plan under subsections (f) and (g) of
7 this Section, no subsequent rate impact determinations shall be
8 made.

9 (Source: P.A. 99-906, eff. 6-1-17.)

10 (220 ILCS 5/8-507) (from Ch. 111 2/3, par. 8-507)

11 Sec. 8-507. Every public utility shall file with the
12 Commission, under such rules and regulations as the Commission
13 may prescribe, a report of every accident occurring to or on
14 its plant, equipment, or other property of such a nature to
15 endanger the safety, health or property of any person. Whenever
16 any accident occasions the loss of life or limb to any person,
17 such public utility shall immediately give notice to the
18 Commission of the fact by the speediest means of communication,
19 whether telephone, electronic notification, ~~telegraph~~ or post.

20 The Commission shall investigate all accidents occurring
21 within this State upon the property of any public utility or
22 directly or indirectly arising from or connected with its
23 maintenance or operation, resulting in loss of life or injury
24 to person or property and requiring, in the judgment of the
25 Commission, investigation by it, and shall have the power to

1 make such order or recommendation with respect thereto as in
2 its judgment may seem just and reasonable. Neither the order or
3 recommendation of the Commission nor any accident report filed
4 with the Commission shall be admitted in evidence in any action
5 for damages based on or arising out of the loss of life, or
6 injury to person or property, in this Section referred to.

7 (Source: P.A. 84-617; 84-1025.)

8 (220 ILCS 5/8-508) (from Ch. 111 2/3, par. 8-508)

9 Sec. 8-508. ~~No~~ ~~Except as provided in Section 12-306,~~ no
10 public utility shall abandon or discontinue any service or, in
11 the case of an electric utility, make any modification as
12 herein defined, without first having secured the approval of
13 the Commission, except in case of assignment, transfer, lease
14 or sale of the whole or any part of its franchises, licenses,
15 permits, plant, equipment, business, or other property to any
16 political subdivision or municipal corporation of this State.
17 In the case of the assignment, transfer, lease or sale, in
18 whole or in part, of any franchise, license, permit, plant,
19 equipment, business or other property to any political
20 subdivision or municipal corporation of this State, the public
21 utility shall notify the Commission of such transaction.
22 "Modification" as used in this Section means any change of fuel
23 type which would result in an annual net systemwide decreased
24 use of 10% or more of coal mined in Illinois. The Commission
25 shall conduct public hearings on any request by a public

1 utility to make such modification and shall accept testimony
2 from interested parties qualified to provide evidence
3 regarding the cost or cost savings of the proposed modification
4 as compared with the cost or cost savings of alternative
5 actions by the utility and shall consider the impact on
6 employment related to the production of coal in Illinois. Such
7 hearings shall be commenced no later than 30 days after the
8 filing of the request by the public utility and shall be
9 concluded within 120 days from the date of filing. The
10 Commission must issue its final determination within 60 days of
11 the conclusion of the hearing. In making its determination the
12 Commission shall attach primary weight to the cost or cost
13 savings to the customers of the utility. In granting its
14 approval, the Commission may impose such terms, conditions or
15 requirements as in its judgment are necessary to protect the
16 public interest. Provided, however, that any public utility
17 abandoning or discontinuing service in pursuance of authority
18 granted by the Commission shall be deemed to have waived any
19 and all objections to the terms, conditions or requirements
20 imposed by the Commission in that regard. Provided, further,
21 that nothing in this Section shall be construed to limit the
22 right of a public utility to discontinue service to individual
23 patrons in accordance with the effective rules, regulations,
24 and practices of such public utility.

25 The Commission, after a hearing upon its own motion or upon
26 petition of any public utility, shall have power by order to

1 authorize or require any public utility to curtail or
2 discontinue service to individual customers or classes
3 thereof, or for specific purposes or uses, and otherwise to
4 regulate the furnishing of service, provided that preference
5 for service shall be given to those customers serving essential
6 human needs and governmental agencies performing law
7 enforcement functions, whenever and to the extent such action
8 is required by the convenience and necessity of the public
9 during time of war, invasion, insurrection or martial law, or
10 by reason of a catastrophe, emergency, or shortage of fuel,
11 supplies or equipment employed or service furnished by such
12 public utility; provided, however, that an interim order,
13 effective for a period not exceeding 15 days, may be made
14 without a hearing if the circumstances do not reasonably permit
15 the holding of a hearing. Orders for the curtailment or
16 discontinuance of service pursuant to this paragraph shall not
17 be continued in effect for any period beyond that which is
18 reasonably necessary, shall be vacated by the Commission as
19 soon as public convenience and necessity permit, and shall
20 include such arrangements for substitute service in the interim
21 as the Commission in its judgment may impose. Every such order,
22 during the period it is in effect and for such further period,
23 if any, as the Commission may provide, shall have the effect of
24 suspending the operation of all prior orders or parts of orders
25 of the Commission inconsistent therewith. No public utility
26 shall be held liable for any damage resulting from any action

1 taken, or any omission to act, pursuant to or in compliance
2 with any order under this paragraph for the curtailment or
3 discontinuance of service unless such order was procured by the
4 fraud of the public utility.

5 (Source: P.A. 87-173.)

6 (220 ILCS 5/8-509) (from Ch. 111 2/3, par. 8-509)

7 Sec. 8-509. When necessary for the construction of any
8 alterations, additions, extensions or improvements ordered or
9 authorized under Section 8-406.1 or, 8-503, ~~or 12-218~~ of this
10 Act, any public utility may enter upon, take or damage private
11 property in the manner provided for by the law of eminent
12 domain. If a public utility seeks relief under this Section in
13 the same proceeding in which it seeks a certificate of public
14 convenience and necessity under Section 8-406.1 of this Act,
15 the Commission shall enter its order under this Section either
16 as part of the Section 8-406.1 order or at the same time it
17 enters the Section 8-406.1 order. If a public utility seeks
18 relief under this Section after the Commission enters its order
19 in the Section 8-406.1 proceeding, the Commission shall issue
20 its order under this Section within 45 days after the utility
21 files its petition under this Section.

22 This Section applies to the exercise of eminent domain
23 powers by telephone companies or telecommunications carriers
24 only when the facilities to be constructed are intended to be
25 used in whole or in part for providing one or more intrastate

1 telecommunications services classified as "noncompetitive"
2 under Section 13-502 in a tariff filed by the condemnor. The
3 exercise of eminent domain powers by telephone companies or
4 telecommunications carriers in all other cases shall be
5 governed solely by "An Act relating to the powers, duties and
6 property of telephone companies", approved May 16, 1903, as now
7 or hereafter amended.

8 (Source: P.A. 96-1348, eff. 7-28-10.)

9 (220 ILCS 5/9-102.1)

10 Sec. 9-102.1. Negotiated rates.

11 (a) Notwithstanding anything to the contrary in any other
12 Section of Article IX of this Act, the Commission may approve
13 one or more rate schedules filed by a public utility that
14 enable the public utility to provide service to customers under
15 contracts that are treated as proprietary and confidential by
16 the Commission notwithstanding the filing thereof. Service
17 under the contracts shall be provided on such terms and for
18 such rates or charges as the public utility and the customer
19 agree upon, without regard to any rate schedules the public
20 utility may have filed with the Commission under any other
21 Section of Article IX of this Act. The contracts shall be filed
22 with the Commission, notwithstanding anything to the contrary
23 in any schedule referred to in subsection (b) of this Section.
24 For purposes of Section 3-121 of this Act, the amounts
25 collected under the contracts shall be treated as having been

1 collected under rates that the public utility is required to
2 file under Section 9-102 of this Act.

3 (b) Each schedule described in subsection (a) that became
4 effective before August 25, 1995, and any contract thereunder,
5 shall be deemed to have become effective in accordance with its
6 terms, subject to the provisions of any Commission order that
7 purported to authorize the schedule.

8 (c) In any determination of the rates to be charged by an
9 electric public utility having contracts in effect pursuant to
10 schedules filed under this Section or schedules referred to in
11 subsection (b) of this Section, the revenues received, or to be
12 received, by the electric public utility under each such
13 contract shall be deemed to be equal to the revenues, based on
14 the actual usage of the customer, that would have been, or
15 would be, received under the lowest rates available under
16 schedules on file pursuant to Section 9-201, applicable to a
17 class of consumers that includes the customer, including any
18 applicable riders or surcharges, plus any revenues that would
19 have been, or would be required to pay for investment or
20 expenses incurred by the electric public utility that would not
21 be incurred if service were provided under such lowest rates.
22 The cost of capital used to determine rates to be charged by
23 the electric public utility shall be that which would have
24 obtained if service were provided under such lowest rates. The
25 provisions of this subsection (c) shall not apply: (1) in any
26 determination of the rates to be charged by a gas public

1 utility, and (2) in any determination of the rates to be
2 charged by an electric public utility, to contracts in effect
3 prior to the effective date of this amendatory Act of 1996
4 pursuant to economic development schedules referred to in
5 Section 9-241 of this Act, under which the electric public
6 utility is authorized to provide discounts for new electrical
7 sales that result from the location of new or expanded
8 industrial facilities in the electric public utility's service
9 territory. The preceding sentence shall not be construed to
10 diminish the Commission's existing authority as of the
11 effective date of this amendatory Act of 1996 to allocate the
12 costs of all public utilities equitably, in any determination
13 of rates, so as to set rates which are just and reasonable.

14 (d) Any contract filed pursuant to the provisions of
15 subsection (a) of this Section shall be accorded proprietary
16 and confidential treatment by the Commission and otherwise
17 deemed to be exempt from the requirements of Sections 9-102,
18 9-103, 9-104, 9-201, 9-240, 9-241, and 9-243, except to the
19 extent the Commission may, in its discretion, order otherwise.
20 The Commission shall permit any statutory consumer protection
21 agency to have access to any such contract, provided that: (i)
22 the agency, and each individual that will have access on behalf
23 of the agency, agree in writing to keep such contract
24 confidential, such agreement to be in a form established by the
25 Commission; and (ii) access is limited to full-time employees
26 of the agency and such other persons as are acceptable to the

1 public utility or, if the agency and the public utility are
2 unable to agree, are determined to be acceptable by the
3 Commission. "Statutory consumer protection agency" means any
4 office, corporation, or other agency created by ~~Article XI of~~
5 ~~this Act or any other~~ Illinois statute as of the effective date
6 of this amendatory Act of 1996 that has an express statutory
7 duty to represent the interest of public utility customers, any
8 such agency subsequently created by act of the General Assembly
9 that expressly authorizes the agency to access the information
10 described in this subsection, or the Attorney General of the
11 State of Illinois.

12 (e) Nothing in this Section shall be construed to give a
13 public utility the authority to provide electric or natural gas
14 service to a customer the public utility is not otherwise
15 lawfully entitled to serve. Nothing in this Section shall be
16 construed to affect in any way the service rights of electric
17 suppliers as granted under the Electric Supplier Act.

18 (f) The provisions of subsection (b) of this Section
19 9-102.1 are intended to be severable from the remaining
20 provisions of this Act; and therefore, no determination of the
21 validity of the provisions of subsection (b) shall affect the
22 validity of the remaining provisions of this Section 9-102.1.

23 (g) After January 1, 2001, no contract for electric service
24 may be entered into under any schedule filed pursuant to the
25 provisions of subsection (a) of this Section or under any
26 schedule referred to in subsection (b) of this Section. The

1 foregoing provision shall not affect any contract entered into
2 prior to January 1, 2001.

3 (h) Nothing contained in this Section shall be construed as
4 preventing any customer or other appropriate party from filing
5 a complaint or otherwise requesting that the Commission
6 investigate the reasonableness of the terms and conditions of
7 any schedule filed under this Section or referred to in
8 subsection (b) of this Section. Nothing contained in this
9 Section shall be construed as affecting the right of any
10 customer or public utility to enter into and enforce any
11 contract providing for the amounts to be charged for service
12 where the contract is or has been filed pursuant to any other
13 Section of this Act. Nothing contained in this Section shall be
14 construed to limit any Commission authority to authorize a
15 public utility to engage in experimental programs relating to
16 competition, including direct access programs.

17 (Source: P.A. 89-600, eff. 8-2-96.)

18 (220 ILCS 5/9-201) (from Ch. 111 2/3, par. 9-201)

19 Sec. 9-201. (a) Unless the Commission otherwise orders, and
20 except as otherwise provided in this Section, no change shall
21 be made by any public utility in any rate or other charge or
22 classification, or in any rule, regulation, practice or
23 contract relating to or affecting any rate or other charge,
24 classification or service, or in any privilege or facility,
25 except after 45 days' notice to the Commission and to the

1 public as herein provided. Such notice shall be given by filing
2 with the Commission and keeping open for public inspection new
3 schedules or supplements stating plainly the change or changes
4 to be made in the schedule or schedules then in force, and the
5 time when the change or changes will go into effect, and by
6 publication in a newspaper of general circulation or such other
7 notice to persons affected by such change as may be prescribed
8 by rule of the Commission. The Commission, for good cause
9 shown, may allow changes without requiring the 45 days' notice
10 herein provided for, by an order specifying the changes so to
11 be made and the time when they shall take effect and the manner
12 in which they shall be filed and published.

13 When any change is proposed in any rate or other charge, or
14 classification, or in any rule, regulation, practice, or
15 contract relating to or affecting any rate or other charge,
16 classification or service, or in any privilege or facility,
17 such proposed change shall be plainly indicated on the new
18 schedule filed with the Commission, by some character to be
19 designated by the Commission, immediately preceding or
20 following the item.

21 When any public utility providing water or sewer service
22 proposes any change in any rate or other charge, or
23 classification, or in any rule, regulation, practice, or
24 contract relating to or affecting any rate or other charge,
25 classification or service, or in any privilege or facility,
26 such utility shall, in addition to the other notice

1 requirements of this Act, provide notice of such change to all
2 customers potentially affected by including a notice and
3 description of such change, and of Commission procedures for
4 intervention, in the first bill sent to each such customer
5 after the filing of the proposed change.

6 For water or sewer utilities with greater than 15,000 total
7 customers, the following notice requirements are applicable,
8 in addition to the other notice requirements of this Act:

9 (1) As a separate bill insert, an initial notice in the
10 first bill sent to all customers potentially affected by
11 the proposed change after the filing of the proposed change
12 shall include:

13 (A) the approximate date when the change or changes
14 shall go into effect assuming the Commission utilizes
15 the 11-month process as described in this Section;

16 (B) a statement indicating that the estimated bill
17 impact may vary based on multiple factors, including,
18 but not limited to, meter size, usage volume, and the
19 fire protection district;

20 (C) the water or sewer utility's customer service
21 number or other number as may be appropriate where an
22 authorized agent of the water or sewer utility can
23 explain how the proposed increase might impact an
24 individual customer's bill;

25 (D) if the proposed change involves a change from a
26 flat to a volumetric rate, an explanation of volumetric

1 rate;

2 (E) a reference to the water or sewer utility's
3 website where customers can find tips on water
4 conservation; and

5 (F) for customers receiving both water and sewer
6 service from a utility and if the customer has an
7 option to install a separate meter for irrigation to
8 mitigate sewer charges, an explanation of the water and
9 sewer utility's and the customer's responsibilities
10 for installation of a separate meter if such a change
11 is approved.

12 (2) A second notice to all customers shall be included
13 on the first bill after the Commission suspends the tariffs
14 initiating the rate case.

15 (3) Final notice of such change shall be sent to all
16 customers potentially affected by the proposed change by
17 including information required under this paragraph (3)
18 with the first bill after the effective date of the rates
19 approved by the Final Order of the Commission in a rate
20 case. The notice shall include the following:

21 (A) the date when the change or changes went into
22 effect;

23 (B) the water or sewer utility's customer service
24 number or other number as may be appropriate where an
25 authorized agent of the water or sewer utility can
26 explain how the proposed increase might impact an

1 individual customer's bill;

2 (C) an explanation that usage shall now be charged
3 at a volumetric rate rather than a flat rate, if
4 applicable;

5 (D) a reference to the water or sewer utility's
6 website where the customer can find tips on water
7 conservation; and

8 (E) for customers receiving both water and sewer
9 service from a utility and if the customer has an
10 option to install a separate meter for irrigation to
11 mitigate sewer charges, an explanation of the water and
12 sewer utility's and the customer's responsibilities
13 for installation of a separate meter if such a change
14 is approved.

15 (b) Whenever there shall be filed with the Commission any
16 schedule stating an individual or joint rate or other charge,
17 classification, contract, practice, rule or regulation, the
18 Commission shall have power, and it is hereby given authority,
19 either upon complaint or upon its own initiative without
20 complaint, at once, and if it so orders, without answer or
21 other formal pleadings by the interested public utility or
22 utilities, but upon reasonable notice, to enter upon a hearing
23 concerning the propriety of such rate or other charge,
24 classification, contract, practice, rule or regulation, and
25 pending the hearing and decision thereon, such rate or other
26 charge, classification, contract, practice, rule or regulation

1 shall not go into effect. The period of suspension of such rate
2 or other charge, classification, contract, practice, rule or
3 regulation shall not extend more than 105 days beyond the time
4 when such rate or other charge, classification, contract,
5 practice, rule or regulation would otherwise go into effect
6 unless the Commission, in its discretion, extends the period of
7 suspension for a further period not exceeding 6 months.

8 All rates or other charges, classifications, contracts,
9 practices, rules or regulations not so suspended shall, on the
10 expiration of 45 days from the time of filing the same with the
11 Commission, or of such lesser time as the Commission may grant,
12 go into effect and be the established and effective rates or
13 other charges, classifications, contracts, practices, rules
14 and regulations, subject to the power of the Commission, after
15 a hearing had on its own motion or upon complaint, as herein
16 provided, to alter or modify the same.

17 Within 30 days after such changes have been authorized by
18 the Commission, copies of the new or revised schedules shall be
19 posted or filed in accordance with the terms of Section 9-103
20 of this Act, in such a manner that all changes shall be plainly
21 indicated. The Commission shall incorporate into the period of
22 suspension a review period of 4 business days during which the
23 Commission may review and determine whether the new or revised
24 schedules comply with the Commission's decision approving a
25 change to the public utility's rates. Such review period shall
26 not extend the suspension period by more than 2 days. Absent

1 notification to the contrary within the 4 business day period,
2 the new or revised schedules shall be deemed approved.

3 (c) If the Commission enters upon a hearing concerning the
4 propriety of any proposed rate or other charge, classification,
5 contract, practice, rule or regulation, the Commission shall
6 establish the rates or other charges, classifications,
7 contracts, practices, rules or regulations proposed, in whole
8 or in part, or others in lieu thereof, which it shall find to
9 be just and reasonable. In such hearing, the burden of proof to
10 establish the justness and reasonableness of the proposed rates
11 or other charges, classifications, contracts, practices, rules
12 or regulations, in whole and in part, shall be upon the
13 utility. The utility, the staff of the Commission, the Attorney
14 General, or any party to a proceeding initiated under this
15 Section who has been granted intervenor status and submitted a
16 post-hearing brief must be given the opportunity to present
17 oral argument, if requested no later than the date for filing
18 exceptions, on the propriety of any proposed rate or other
19 charge, classification, contract, practice, rule, or
20 regulation. No rate or other charge, classification, contract,
21 practice, rule or regulation shall be found just and reasonable
22 unless it is consistent with Sections of this Article.

23 (d) Except where compliance with Section 8-401 of this Act
24 is of urgent and immediate concern, no representative of a
25 public utility may discuss with a commissioner, commissioner's
26 assistant, or administrative law judge ~~hearing examiner~~ in a

1 non-public setting a planned filing for a general rate
2 increase. If a public utility makes a filing under this
3 Section, then no substantive communication by any such person
4 with a commissioner, commissioner's assistant, or
5 administrative law judge ~~hearing examiner~~ concerning the
6 filing is permitted until a notice of hearing has been issued.
7 After the notice of hearing has been issued, the only
8 communications by any such person with a commissioner,
9 commissioner's assistant, or administrative law judge ~~hearing~~
10 ~~examiner~~ concerning the filing permitted are communications
11 permitted under Section 10-103 of this Act. If any such
12 communication does occur, then within 5 days of the docket
13 being initiated all details relating to the communication shall
14 be placed on the public record of the proceeding. The record
15 shall include any materials, whether written, recorded,
16 filmed, or graphic in nature, produced or reproduced on any
17 media, used in connection with the communication. The record
18 shall reflect the names of all persons who transmitted,
19 received, or were otherwise involved in the communication, the
20 duration of the communication, and whether the communication
21 occurred in person or by other means. In the case of an oral
22 communication, the record shall also reflect the location or
23 locations of all persons involved in the communication and, if
24 the communication occurred by telephone, the telephone numbers
25 for the callers and recipients of the communication. A
26 commissioner, commissioner's assistant, or administrative law

1 judge hearing ~~examiner~~ who is involved in any such
2 communication shall be recused from the affected proceeding.
3 The Commission, or any commissioner or administrative law judge
4 ~~hearing examiner~~ presiding over the proceeding shall, in the
5 event of a violation of this Section, take action necessary to
6 ensure that such violation does not prejudice any party or
7 adversely affect the fairness of the proceedings including
8 dismissing the affected proceeding. Nothing in this subsection
9 (d) is intended to preclude otherwise allowable updates on
10 issues that may be indirectly related to a general rate case
11 filing because cost recovery for the underlying activity may be
12 requested. Such updates may include, without limitation,
13 issues related to outages and restoration, credit ratings,
14 security issuances, reliability, Federal Energy Regulatory
15 Commission matters, Federal Communications Commission matters,
16 regional reliability organizations, consumer education, or
17 labor matters, provided that such updates may not include cost
18 recovery in a planned rate case.

19 (Source: P.A. 98-191, eff. 1-1-14.)

20 (220 ILCS 5/9-214) (from Ch. 111 2/3, par. 9-214)

21 Sec. 9-214. (a) As used in this Section:

22 (1) "CWIP" means those assets which are recorded as
23 construction work in progress on a public utility's books
24 of accounts maintained in accordance with the applicable
25 regulations and orders of the Commission.

1 (2) "Rate base" means the original cost value of the
2 property on which a return is allowed.

3 (3) "CWIP ratio" means the fraction, expressed as a
4 percentage, calculated by dividing the amount of CWIP
5 included in a public utility's rate base by the utility's
6 rate base.

7 (4) "Existing CWIP" means the amount of CWIP included
8 in the rate base on December 1, 1983.

9 (b) In any determination under Section 9-201, 9-202 or
10 9-250 of this Act in a proceeding begun on or after December 1,
11 1983:

12 (1) For any public utility with a CWIP ratio on
13 December 1, 1983, which is less than 15%, the Commission
14 shall not include in the rate base for such public utility
15 an amount for CWIP to exceed 80% of existing CWIP for the
16 period from December 1, 1983 through December 31, 1984, and
17 60% of existing CWIP for the period from January 1, 1985
18 through December 31, 1985 and 40% of existing CWIP for the
19 period from January 1, 1986 through December 31, 1986, and
20 20% of existing CWIP for the period from January 1, 1987
21 through December 31, 1987.

22 (2) For any public utility with a CWIP ratio on
23 December 1, 1983 which is greater than or equal to 15%, the
24 Commission shall not include in the rate base for such
25 public utility an amount for CWIP in excess of the amount
26 of CWIP included in the rate base on December 1, 1983, plus

1 50% of the allowed construction expenses incurred by the
2 public utility from the date of the most recent rate
3 determination by the Commission prior to December 1, 1983.

4 (c) The limitations set forth in paragraph (b) of this
5 Section shall not be interpreted as an expansion of the
6 Commission's authority to include CWIP in the rate base, but
7 rather solely as a limitation thereon.

8 (d) The Commission shall not include an amount for CWIP in
9 the rate base for any public utility for the period after
10 December 31, 1988.

11 (e) Notwithstanding the provisions of paragraphs (b) and
12 (d) of this Section the Commission may include in the rate base
13 of a public utility an amount for CWIP for a public utility's
14 investment which is scheduled to be placed in service within 12
15 months of the date of the rate determination. For the purposes
16 of this paragraph nuclear generating facilities shall be
17 considered to be in service upon the commencement of electric
18 generation.

19 (f) Notwithstanding the provisions of paragraph (b) and
20 (d), the Commission may include in the rate base of a public
21 utility an amount of CWIP for a public utility's investment in
22 pollution control devices for the control of sulfur dioxide
23 emissions and the purification of water and sewage; provided,
24 however, that upon application by a public utility which is
25 constructing one or more pollution control devices for the
26 control of sulfur dioxide emissions as part of a Clean Air Act

1 compliance plan approved by the Commission pursuant to
2 subsection (e) of Section 8-402.1, the Commission shall include
3 in such public utility's rate base an amount of CWIP equal to
4 its investment in such pollution control device or devices, but
5 not to exceed the estimated cost of such facilities specified
6 in the Commission's order or supplemental order pursuant to
7 subsection (e) of Section 8-402.1. For purposes of this
8 subsection (f), the public utility's investment shall not
9 include the amount of any state, federal or other grants
10 provided to the public utility to fund the design, acquisition,
11 construction, installation and testing of pollution control
12 devices for the control of sulfur dioxide emissions.

13 (g) Except for those amounts of CWIP described in
14 paragraphs (e) and (f) of this Section, the Commission shall
15 consider, in any rate filing subsequent to the coming on line
16 of any new utility plant where CWIP funds have been allowed in
17 rate base, a rate moderation plan directed towards allowing an
18 appropriate return to ratepayers for previous amounts
19 attributable to CWIP funds.

20 ~~The Commission shall conduct an investigation and study of~~
21 ~~the costs and benefits to ratepayers of the inclusion of~~
22 ~~construction work in progress in rate base. Such study shall~~
23 ~~include a full opportunity for participation by the public~~
24 ~~through notice and hearings. If the Commission determines that~~
25 ~~in certain circumstances the inclusion of CWIP in rate base~~
26 ~~would be demonstrably beneficial to ratepayers, the Commission~~

1 ~~shall report its findings with recommendations to the General~~
2 ~~Assembly by December 31, 1988.~~

3 (Source: P.A. 87-173.)

4 (220 ILCS 5/9-222.2) (from Ch. 111 2/3, par. 9-222.2)

5 Sec. 9-222.2. Additional Charge - Recovery. The additional
6 charge authorized by Section 9-221 or Section 9-222 shall be
7 made (i) in the case of a tax measured by gross receipts or
8 gross revenue, by adding to the customer's bill a uniform
9 percentage to those amounts payable by the customer for
10 intrastate utility service which are includible in the measure
11 of such tax, except, however, such method is not required where
12 practical considerations justify a utility's or
13 telecommunications carrier's use of another just and
14 reasonable method of recovering its entire liability for such
15 tax, and (ii) in the case of a tax measured by the number of
16 therms or kilowatt-hours distributed, supplied, furnished,
17 sold, transported or transmitted, by adding to the customer's
18 bill an amount equal to the number of therms or kilowatt-hours
19 which are includible in the measure of such tax, multiplied by
20 the applicable tax rate. ~~Without limiting the generality of the~~
21 ~~foregoing, it shall not be deemed unjust and unreasonable or a~~
22 ~~violation of Section 9-241 for telecommunications carriers to~~
23 ~~recover the expense of taxes imposed by any municipality~~
24 ~~pursuant to Section 8-11-2 of the Illinois Municipal Code on~~
25 ~~coin revenues generated by coin operated telecommunications~~

1 ~~devices by including the expense of the tax within the coin~~
2 ~~rates for intra-state coin paid telecommunications services.~~

3 (Source: P.A. 87-750.)

4 (220 ILCS 5/9-223) (from Ch. 111 2/3, par. 9-223)

5 Sec. 9-223. Fire protection charge.

6 (a) The Commission may authorize any public utility engaged
7 in the production, storage, transmission, sale, delivery or
8 furnishing of water to impose a fire protection charge, in
9 addition to any rate authorized by this Act, sufficient to
10 cover a reasonable portion of the cost of providing the
11 capacity, facilities and the water necessary to meet the fire
12 protection needs of any municipality or public fire protection
13 district. Such fire protection charge shall be in the form of a
14 fixed amount per bill and shall be shown separately on the
15 utility bill of each customer of the municipality or fire
16 protection district. Any filing by a public utility to impose
17 such a fire protection charge or to modify a charge shall be
18 made pursuant to Section 9-201 of this Act. Any fire protection
19 charge imposed shall reflect the costs associated with
20 providing fire protection service for each municipality or fire
21 protection district. No such charge shall be imposed directly
22 on any municipality or fire protection district for a
23 reasonable level of fire protection services unless provided
24 for in a separate agreement between the municipality or the
25 fire protection district and the utility.

1 (b) (Blank). ~~By December 31, 2007, the Commission shall~~
2 ~~conduct at least 3 public forums to evaluate the purpose and~~
3 ~~use of each fire protection charge imposed under this Section.~~
4 ~~At least one forum must be held in northern Illinois, at least~~
5 ~~one forum must be held in central Illinois, and at least one~~
6 ~~forum must be held in southern Illinois. The Commission must~~
7 ~~invite a representative from each municipality and fire~~
8 ~~protection district affected by a fire protection charge under~~
9 ~~this Section to attend a public forum. The Commission shall~~
10 ~~report its findings concerning recommendations concerning the~~
11 ~~purpose and use of each fire protection charge to the General~~
12 ~~Assembly no later than the last day of the veto session in~~
13 ~~2008.~~

14 (Source: P.A. 94-950, eff. 6-27-06.)

15 (220 ILCS 5/10-101) (from Ch. 111 2/3, par. 10-101)

16 Sec. 10-101. The Commission, or any commissioner or
17 administrative law judge hearing examiner designated by the
18 Commission, shall have power to hold investigations, inquiries
19 and hearings concerning any matters covered by the provisions
20 of this Act, or by any other Acts relating to public utilities
21 subject to such rules and regulations as the Commission may
22 establish. In the conduct of any investigation, inquiry or
23 hearing the provisions of the Illinois Administrative
24 Procedure Act, including but not limited to Sections 10-25 and
25 10-35 of that Act, shall be applicable and the Commission's

1 rules shall be consistent therewith. Complaint cases initiated
2 pursuant to any Section of this Act, investigative proceedings
3 and ratemaking cases shall be considered "contested cases" as
4 defined in Section 1-30 of the Illinois Administrative
5 Procedure Act, any contrary provision therein notwithstanding.
6 Any proceeding intended to lead to the establishment of
7 policies, practices, rules or programs applicable to more than
8 one utility may, in the Commission's discretion, be conducted
9 pursuant to either rulemaking or contested case provisions,
10 provided such choice is clearly indicated at the beginning of
11 such proceeding and subsequently adhered to. No violation of
12 this Section or the Illinois Administrative Procedure Act and
13 no informality in any proceeding or in the manner of taking
14 testimony before the Commission, any commissioner or
15 administrative law judge ~~hearing examiner~~ of the Commission
16 shall invalidate any order, decision, rule or regulation made,
17 approved, or confirmed by the Commission in the absence of
18 prejudice. All hearings conducted by the Commission shall be
19 open to the public.

20 Each commissioner and every administrative law judge
21 ~~hearing examiner~~ of the Commission designated by it to hold any
22 inquiry, investigation or hearing, shall have the power to
23 administer oaths and affirmations, certify to all official
24 acts, issue subpoenas, compel the attendance and testimony of
25 witnesses, and the production of papers, books, accounts and
26 documents.

1 Hearings shall be held either by the Commission or by one
2 or more commissioners or administrative law judges ~~hearing~~
3 ~~examiners~~.

4 When any attorney who is not admitted to the practice of
5 law in Illinois by unlimited or conditional admission, but who
6 is licensed in another state, territory, or commonwealth of the
7 United States, the District of Columbia, or a foreign country
8 may desire to appear before the Commission, such attorney shall
9 be allowed to appear before the Commission as provided in
10 Supreme Court Rule 707.

11 All evidence presented at hearings held by the Commission
12 or under its authority shall become a part of the records of
13 the Commission. In all cases in which the Commission bases any
14 action on reports of investigation or inquiries not conducted
15 as hearings, such reports shall be made a part of the records
16 of the Commission. All proceedings of the Commission and all
17 documents and records in its possession shall be public
18 records, except as in this Act otherwise provided.

19 To the extent consistent with this Section and the Illinois
20 Administrative Procedure Act, the Commission may adopt
21 reasonable and proper rules and regulations relative to the
22 exercise of its powers, and proper rules to govern its
23 proceedings, and regulate the mode and manner of all
24 investigations and hearings, and alter and amend the same.

25 (Source: P.A. 98-895, eff. 1-1-15.)

1 (220 ILCS 5/10-101.1)

2 Sec. 10-101.1. Mediation; arbitration; case management.

3 (a) It is the intent of the General Assembly that
4 proceedings before the Commission shall be concluded as
5 expeditiously as is possible consistent with the right of the
6 parties to the due process of law and protection of the public
7 interest. It is further the intent of the General Assembly to
8 permit and encourage voluntary mediation and voluntary binding
9 arbitration of disputes arising under this Act.

10 (b) Nothing in this Act shall prevent parties to contested
11 cases brought before the Commission from resolving those cases,
12 or other disputes arising under this Act, in part or in their
13 entirety, by agreement of all parties, by compromise and
14 settlement, or by voluntary mediation; provided, however, that
15 nothing in this Section shall limit the Commission's authority
16 to conduct such investigations and enter such orders as it
17 shall deem necessary to enforce the provisions of this Act or
18 otherwise protect the public interest. Evidence of conduct or
19 statements made by a party in furtherance of voluntary
20 mediation or in compromise negotiations is not admissible as
21 evidence should the matter subsequently be heard by the
22 Commission; provided, however that evidence otherwise
23 discoverable is not excluded or deemed inadmissible merely
24 because it is presented in the course of voluntary mediation or
25 compromise negotiations. No civil penalty shall be imposed upon
26 parties that reach an agreement pursuant to the mediation

1 procedures in this Section.

2 (c) The Commission shall prescribe by rule such procedures
3 and facilities as are necessary to permit parties to resolve
4 disputes through voluntary mediation prior to the filing of, or
5 at any point during, the pendency of a contested matter.
6 Parties to disputes arising under this Act are encouraged to
7 submit disputes to the Commission for voluntary mediation,
8 which shall not be binding upon the parties. Submission of a
9 dispute to voluntary mediation shall not compromise the right
10 of any party to bring action under this Act.

11 (d) In any contested case before the Commission, at the
12 Commission's or administrative law judge's ~~hearing examiner's~~
13 direction or on motion of any party, a case management
14 conference may be held at such time in the proceeding prior to
15 evidentiary hearing as the administrative law judge ~~hearing~~
16 ~~examiner~~ deems proper. Prior to the conference, when directed
17 to do so, all parties shall file a case management memorandum
18 that addresses items (1) through (9) as directed by the
19 administrative law judge ~~hearing examiner~~. At the conference,
20 the following shall be considered:

21 (1) the identification and simplification of the
22 issues; provided, however, that the identification of
23 issues by a party shall not foreclose that party from
24 raising such other meritorious issues as that party might
25 subsequently identify;

26 (2) amendments to the pleadings;

1 (3) the possibility of obtaining admissions of fact and
2 of documents which will avoid unnecessary proof;

3 (4) limitations on discovery including:

4 (A) the area of expertise and the number of
5 witnesses who will likely be called; provided,
6 however, that the identification of witnesses by a
7 party shall not foreclose that party from producing
8 such other witnesses as that party might subsequently
9 identify; and

10 (B) schedules for responses to and completion of
11 discovery; provided, however, that such responses
12 shall under no circumstances be provided later than 28
13 days after such discovery or requests are served,
14 unless the administrative law judge ~~hearing examiner~~
15 shall order or the parties agree to some other time
16 period for response;

17 (5) the possibility of settlement and scheduling of a
18 settlement conference;

19 (6) the advisability of alternative dispute resolution
20 including, but not limited to, mediation or arbitration;

21 (7) the date on which the matter should be ready for
22 evidentiary hearing and the likely duration of the hearing;

23 (8) the advisability of holding subsequent case
24 management conferences; and

25 (9) any other matters that may aid in the disposition
26 of the action.

1 (e) The Commission is hereby authorized, if requested by
2 all parties to any complaint brought under this Act, to
3 arbitrate the complaint and to enter a binding arbitration
4 award disposing of the complaint. The Commission shall
5 prescribe by rule procedures for arbitration.

6 (Source: P.A. 92-22, eff. 6-30-01.)

7 (220 ILCS 5/10-103) (from Ch. 111 2/3, par. 10-103)

8 Sec. 10-103. In all proceedings, investigations or
9 hearings conducted by the Commission, except in the disposition
10 of matters which the Commission is authorized to entertain or
11 dispose of on an ex parte basis, any finding, decision or order
12 made by the Commission shall be based exclusively on the record
13 for decision in the case, which shall include only the
14 transcript of testimony and exhibits together with all papers
15 and requests filed in the proceeding, including, in contested
16 cases, the documents and information described in Section 10-35
17 of the Illinois Administrative Procedure Act.

18 The provisions of Section 10-60 of the Illinois
19 Administrative Procedure Act shall apply in full to Commission
20 proceedings, including ratemaking cases, any provision of the
21 Illinois Administrative Procedure Act to the contrary
22 notwithstanding.

23 The provisions of Section 10-60 shall not apply, however,
24 to communications between Commission employees who are engaged
25 in investigatory, prosecutorial or advocacy functions and

1 other parties to the proceeding, provided that such Commission
2 employees are still prohibited from communicating on an ex
3 parte basis, as designated in Section 10-60, directly or
4 indirectly, with members of the Commission, any administrative
5 law judge ~~hearing examiner~~ in the proceeding, or any Commission
6 employee who is or may reasonably be expected to be involved in
7 the decisional process of the proceeding. Any commissioner,
8 administrative law judge ~~hearing examiner~~, or other person who
9 is or may reasonably be expected to be involved in the
10 decisional process of a proceeding, who receives, or who makes
11 or knowingly causes to be made, a communication prohibited by
12 this Section or Section 10-60 of the Illinois Administrative
13 Procedure Act as modified by this Section, shall place on the
14 public record of the proceeding (1) any and all such written
15 communications; (2) memoranda stating the substance of any and
16 all such oral communications; and (3) any and all written
17 responses and memoranda stating the substance of any and all
18 oral responses to the materials described in clauses (1) and
19 (2).

20 The Commission, or any commissioner or administrative law
21 judge ~~hearing examiner~~ presiding over the proceeding, shall in
22 the event of a violation of this Section, take whatever action
23 is necessary to ensure that such violation does not prejudice
24 any party or adversely affect the fairness of the proceedings,
25 including dismissing the affected matter.

26 (Source: P.A. 96-33, eff. 7-10-09.)

1 (220 ILCS 5/10-104) (from Ch. 111 2/3, par. 10-104)

2 Sec. 10-104. All hearings before the Commission or any
3 commissioner or administrative law judge ~~hearing examiner~~
4 shall be held within the county in which the subject matter of
5 the hearing is situated, or if the subject matter of the
6 hearing is situated in more than one county, then at a place or
7 places designated by the Commission, or agreed upon by the
8 parties in interest, within one or more such counties, or at
9 the place which in the judgment of the Commission shall be most
10 convenient to the parties to be heard.

11 (Source: P.A. 84-617.)

12 (220 ILCS 5/10-105) (from Ch. 111 2/3, par. 10-105)

13 Sec. 10-105. No person shall be excused from testifying or
14 from producing any papers, books, accounts or documents in any
15 investigation or inquiry or upon any hearing ordered by the
16 Commission, when ordered to do so by the Commission or any
17 commissioner or administrative law judge ~~hearing examiner~~,
18 upon the ground that the testimony or evidence, documentary or
19 otherwise, may tend to incriminate him or subject him to a
20 penalty or forfeiture. But no person shall be prosecuted or
21 subjected to any penalty or forfeiture for or on account of any
22 transaction, matter or thing concerning which he may testify or
23 produce evidence, documentary or otherwise, before the
24 Commission or a commissioner or administrative law judge

1 ~~hearing examiner~~: Provided, that such immunity shall extend
2 only to a natural person, who in obedience to a subpoena, gives
3 testimony under oath or produces evidence, documentary or
4 otherwise under oath. No person so testifying shall be exempt
5 from prosecution and punishment for perjury committed in so
6 testifying. The Commission or a commissioner or administrative
7 law judge ~~hearing examiner~~ may, on the motion of a party or on
8 its own motion, strike, in whole or in part, the testimony of a
9 person who is not reasonably prepared to respond to questions
10 under cross-examination intending to elicit information
11 directly related to matters raised by that person in his
12 testimony.

13 (Source: P.A. 93-457, eff. 8-8-03.)

14 (220 ILCS 5/10-106) (from Ch. 111 2/3, par. 10-106)

15 Sec. 10-106. All subpoenas issued under the terms of this
16 Act may be served by any person of full age. The fees of
17 witnesses for attendance and travel shall be the same as fees
18 of witnesses before the circuit courts of this State, such fees
19 to be paid when the witness is excused from further attendance,
20 when the witness is subpoenaed at the instance of the
21 Commission, or any commissioner or administrative law judge
22 ~~hearing examiner~~; and the disbursements made in the payment of
23 such fees shall be audited and paid in the same manner as are
24 other expenses of the Commission. Whenever a subpoena is issued
25 at the instance of a complainant, respondent, or other party to

1 any proceeding before the Commission, the Commission may
2 require that the cost of service thereof and the fee of the
3 witness shall be borne by the party at whose instance the
4 witness is summoned, and the Commission shall have power, in
5 its discretion, to require a deposit to cover the cost of such
6 service and witness fees and the payment of the legal witness
7 fee and mileage to the witness when served with subpoena. A
8 subpoena issued as aforesaid shall be served in the same manner
9 as a subpoena issued out of a court.

10 Any person who shall be served with a subpoena to appear
11 and testify, or to produce books, papers, accounts or
12 documents, issued by the Commission or by any commissioner or
13 administrative law judge ~~hearing examiner~~, in the course of an
14 inquiry, investigation or hearing conducted under any of the
15 provisions of this Act, and who refuse or neglect to appear, or
16 to testify, or to produce books, papers, accounts and documents
17 relevant to said inquiry, investigation or hearing as commanded
18 in such subpoena, shall be guilty of a Class A misdemeanor.

19 Any circuit court of this State, upon application of the
20 Commission, or a commissioner or administrative law judge
21 ~~hearing examiner~~, may, in its discretion, compel the attendance
22 of witnesses, the production of books, papers, accounts and
23 documents, and the giving of testimony before the Commission,
24 or before any such commissioner or administrative law judge
25 ~~hearing examiner~~, by an attachment for contempt or otherwise,
26 in the same manner as production of evidence may be compelled

1 before the court.

2 The Commission or a commissioner or administrative law
3 judge ~~hearing examiner~~ or any party may in any investigation or
4 hearing before the Commission, cause the deposition of
5 witnesses residing within or without the State to be taken in
6 the manner prescribed by law for like depositions in civil
7 actions in the courts of this State and to that end may compel
8 the attendance of witnesses and the production of papers,
9 books, accounts and documents.

10 The Commission may require, by order served on any public
11 utility in the manner provided herein for the service of
12 orders, the production within this State at such time and place
13 as it may designate, of any books, accounts, papers or
14 documents kept by any public utility operating within this
15 State in any office or place without this State, or, at its
16 option, verified copies in lieu thereof, so that an examination
17 thereof may be made by the Commission or under its direction.

18 (Source: P.A. 84-617.)

19 (220 ILCS 5/10-107) (from Ch. 111 2/3, par. 10-107)

20 Sec. 10-107. The Commission, each commissioner and each
21 employee of the Commission properly authorized thereby shall
22 have the right, at any and all times to inspect the papers,
23 books, accounts and documents, plant, equipment or other
24 property of any public utility, and the Commission, each
25 commissioner and any administrative law judge ~~hearing examiner~~

1 of the Commission authorized to administer oaths shall have the
2 power to examine under oath any officer, agent or employee of
3 such public utility in relation to any matter within the
4 jurisdiction of the Commission. A person other than a
5 commissioner or administrative law judge ~~hearing examiner~~
6 demanding such inspection shall produce under the seal of the
7 Commission his authority to make such inspection. A written
8 record of the testimony or statement so given under oath shall
9 be made and filed with the Commission. Information so obtained
10 shall not be admitted in evidence or used in any proceeding
11 except in proceedings provided for in this Act.

12 Any party to a proceeding before the Commission shall have
13 the right to inspect the records of all hearings,
14 investigations or inquiries conducted by or under the authority
15 of the Commission, which may relate to the issues involved in
16 such proceeding; and to submit suggestions as to other matters
17 to be investigated or as to questions to be propounded. If the
18 Commission is satisfied that such suggested investigation
19 should be made or such suggested questions answered, and that
20 the information desired is within the power of either party to
21 furnish, it shall enter an order requiring the investigation to
22 be made or the questions to be answered, and upon failure or
23 refusal to comply with such order, the Commission shall either
24 refuse to grant the relief prayed for by the party refusing to
25 comply, or may grant the relief prayed for by the opposing
26 party against the party refusing to comply.

1 (Source: P.A. 84-617.)

2 (220 ILCS 5/10-110) (from Ch. 111 2/3, par. 10-110)

3 Sec. 10-110. At the time fixed for any hearing upon a
4 complaint, the complainant and the person or corporation
5 complained of, and such persons or corporations as the
6 Commission may allow to intervene, shall be entitled to be
7 heard and to introduce evidence. The Commission shall issue
8 process to enforce the attendance of all necessary witnesses.
9 At the conclusion of such hearing the Commission shall make and
10 render findings concerning the subject matter and facts
11 inquired into and enter its order based thereon. A copy of such
12 order, certified under the seal of the Commission, shall be
13 served upon the person or corporation complained of, or his or
14 its attorney, which order shall, of its own force, take effect
15 and become operative twenty days after the service thereof,
16 except as otherwise provided, and shall continue in force
17 either for a period which may be designated therein or until
18 changed or abrogated by the Commission. Where an order cannot,
19 in the judgment of the Commission, be complied with within
20 twenty days, the Commission may prescribe such additional time
21 as in its judgment is reasonably necessary to comply with the
22 order, and may, on application and for good cause shown, extend
23 the time for compliance fixed in its order. A full and complete
24 record shall be preserved of all proceedings had before the
25 Commission, or any member thereof, or any administrative law

1 judge hearing examiner, on any formal hearing had, and all
2 testimony shall be taken down by a stenographer appointed by
3 the Commission, and the parties shall be entitled to be heard
4 in person or by attorney.

5 In any proceeding involving a public utility in which the
6 lawfulness of any of its rates or other charges shall be called
7 in question by any person or corporation furnishing a commodity
8 or service in competition with said public utility at prices or
9 charges not subject to regulation, the Commission may
10 investigate the competitive prices or other charges demanded or
11 received by such person or corporation for such commodity or
12 service, including the rates or other charges applicable to the
13 transportation thereof. The Commission may, on its own motion
14 or that of any party to such proceeding, issue subpoenas to
15 secure the appearance of witnesses or the production of books,
16 papers, accounts and documents necessary to ascertain the
17 prices, rates or other charges for such commodity or service or
18 for the transportation thereof, and shall dismiss from such
19 proceeding any party failing to comply with a subpoena so
20 issued.

21 In case of an appeal from any order or decision of the
22 Commission, under the terms of Sections 10-201 and 10-202 of
23 this Act, a transcript of such testimony, together with all
24 exhibits or copies thereof introduced and all information
25 secured by the Commission on its own initiative and considered
26 by it in rendering its order or decision (and required by this

1 Act to be made a part of its records) and of the pleadings,
2 records and proceedings in the case, including transcripts of
3 Commission meetings prepared in accordance with Section 10-102
4 of this Act, shall constitute the record of the Commission:
5 Provided, that on appeal from an order or decision of the
6 Commission, the person or corporation taking the appeal and the
7 Commission may stipulate that a certain question or certain
8 questions alone and a specified portion only of the evidence
9 shall be certified to the court for its judgment, whereupon
10 such stipulation and the question or questions and the evidence
11 therein specified shall constitute the record on appeal.

12 Copies of all official documents and orders filed or
13 deposited according to law in the office of the Commission,
14 certified by the Chairman of the Commission or his or her
15 designee to be true copies of the originals, under the official
16 seal of the Commission, shall be evidence in like manner as the
17 originals.

18 In any matter concerning which the Commission is authorized
19 to hold a hearing, upon complaint or application or upon its
20 own motion, notice shall be given to the public utility and to
21 such other interested persons as the Commission shall deem
22 necessary in the manner provided in Section 10-108, and the
23 hearing shall be conducted in like manner as if complaint had
24 been made to or by the Commission. But nothing in this Act
25 shall be taken to limit or restrict the power of the
26 Commission, summarily, of its own motion, with or without

1 notice, to conduct any investigations or inquiries authorized
2 by this Act, in such manner and by such means as it may deem
3 proper, and to take such action as it may deem necessary in
4 connection therewith. With respect to any rules, regulations,
5 decisions or orders which the Commission is authorized to issue
6 without a hearing, and so issues, any public utility or other
7 person or corporation affected thereby and deeming such rules,
8 regulations, decisions or orders, or any of them, improper,
9 unreasonable or contrary to law, may apply for a hearing
10 thereon, setting forth specifically in such application every
11 ground of objection which the applicant desires to urge against
12 such rule, regulation, decision or order. The Commission may,
13 in its discretion, grant or deny the application, and a
14 hearing, if had, shall be subject to the provisions of this and
15 the preceding Sections.

16 (Source: P.A. 96-33, eff. 7-10-09.)

17 (220 ILCS 5/10-111) (from Ch. 111 2/3, par. 10-111)

18 Sec. 10-111. In any hearing, proceeding, investigation_L or
19 rulemaking conducted by the Commission, the Commission,
20 commissioner_L or administrative law judge ~~hearing examiner~~
21 presiding, shall, after the close of evidentiary hearings,
22 prepare a recommended or tentative decision, finding_L or order_L
23 including a statement of findings and conclusions and the
24 reasons or basis therefore, on all the material issues of fact,
25 law_L or discretion presented on the record. Such recommended or

1 tentative decision, finding_L or order shall be served on all
2 parties who shall be entitled to a reasonable opportunity to
3 respond thereto, either in briefs or comments otherwise to be
4 filed or separately. The recommended or tentative decision,
5 finding_L or order and any responses thereto_T shall be included
6 in the record for decision. This Section shall not apply to any
7 hearing, proceeding, or investigation conducted under Section
8 13-515.

9 (Source: P.A. 96-33, eff. 7-10-09.)

10 (220 ILCS 5/10-201) (from Ch. 111 2/3, par. 10-201)

11 Sec. 10-201. (a) Jurisdiction. Within 35 days from the date
12 that a copy of the order or decision sought to be reviewed was
13 served upon the party affected by any order or decision of the
14 Commission refusing an application for a rehearing of any rule,
15 regulation, order or decision of the Commission, including any
16 order granting or denying interim rate relief, or within 35
17 days from the date that a copy of the order or decision sought
18 to be reviewed was served upon the party affected by any final
19 order or decision of the Commission upon and after a rehearing
20 of any rule, regulation, order or decision of the Commission,
21 including any order granting or denying interim rate relief,
22 any person or corporation affected by such rule, regulation,
23 order or decision, may appeal to the appellate court of the
24 judicial district in which the subject matter of the hearing is
25 situated, or if the subject matter of the hearing is situated

1 in more than one district, then of any one of such districts,
2 for the purpose of having the reasonableness or lawfulness of
3 the rule, regulation, order or decision inquired into and
4 determined.

5 The court first acquiring jurisdiction of any appeal from
6 any rule, regulation, order or decision shall have and retain
7 jurisdiction of such appeal and of all further appeals from the
8 same rule, regulation, order or decision until such appeal is
9 disposed of in such appellate court.

10 (b) Pleadings and Record. No proceeding to contest any
11 rule, regulation, decision or order which the Commission is
12 authorized to issue without a hearing and has so issued shall
13 be brought in any court unless application shall have been
14 first made to the Commission for a hearing thereon and until
15 after such application has been acted upon by the Commission,
16 nor shall any person or corporation in any court urge or rely
17 upon any grounds not set forth in such application for a
18 hearing before the Commission, but the Commission shall decide
19 the questions presented by the application with all possible
20 expedition consistent with the duties of the Commission. The
21 party taking such an appeal shall file with the Commission
22 written notice of the appeal. The Commission, upon the filing
23 of such notice of appeal, shall, within 5 days thereafter, file
24 with the clerk of the appellate court to which such appeal is
25 taken a certified copy of the order appealed. The Commission
26 shall prepare a copy of the transcript of the evidence,

1 including exhibits and transcripts of Commission meetings
2 prepared in accordance with Section 10-102 of this Act, or any
3 portion of the record designated in a stipulation that only
4 certain questions are involved on appeal, which stipulation is
5 to be included in the record provided for in Section 10-110.
6 The Commission shall certify the record and file the same with
7 the clerk of the appellate court to which such appeal is taken
8 within 35 days of the filing of the notice of appeal. The party
9 serving such notice of appeal shall, within 5 days after the
10 service of such notice upon the Commission, file a copy of the
11 notice, with proof of service, with the clerk of the court to
12 which such appeal is taken, and thereupon the appellate court
13 shall have jurisdiction over the appeal. The appeal shall be
14 heard according to the rules governing other civil cases, so
15 far as the same are applicable.

16 (c) No appellate court shall permit a party affected by any
17 rule, regulation, order or decision of the Commission to
18 intervene or become a party plaintiff or appellant in such
19 court who has not taken an appeal from such rule, regulation,
20 order or decision in the manner as herein provided.

21 (d) No new or additional evidence may be introduced in any
22 proceeding upon appeal from a rule, regulation, order or
23 decision of the Commission, issued or confirmed after a
24 hearing, but the appeal shall be heard on the record of the
25 Commission as certified by it. The findings and conclusions of
26 the Commission on questions of fact shall be held prima facie

1 to be true and as found by the Commission; rules, regulations,
2 orders or decisions of the Commission shall be held to be prima
3 facie reasonable, and the burden of proof upon all issues
4 raised by the appeal shall be upon the person or corporation
5 appealing from such rules, regulations, orders or decisions.

6 (e) Powers and duties of Reviewing Court:

7 (i) An appellate court to which any such appeal is
8 taken shall have the power, and it shall be its duty, to
9 hear and determine such appeal with all convenient speed.
10 Any proceeding in any court in this State directly
11 affecting a rule, regulation, order or decision of the
12 Commission, or to which the Commission is a party, shall
13 have priority in hearing and determination over all other
14 civil proceedings pending in such court, excepting
15 election contests.

16 (ii) If it appears that the Commission failed to
17 receive evidence properly proffered, on a hearing or a
18 rehearing, or an application therefor, the court shall
19 remand the case, in whole or in part, to the Commission
20 with instructions to receive the testimony so proffered and
21 rejected, and to enter a new order based upon the evidence
22 theretofore taken, and such new evidence as it is directed
23 to receive, unless it shall appear that such new evidence
24 would not be controlling, in which case the court shall so
25 find in its order. If the court remands only part of the
26 Commission's rule, regulation, order or decision, it shall

1 determine without delay the lawfulness and reasonableness
2 of any independent portions of the rule, regulation, order
3 or decision subject to appeal.

4 (iii) If the court determines that the Commission's
5 rule, regulation, order or decision does not contain
6 findings or analysis sufficient to allow an informed
7 judicial review thereof, the court shall remand the rule,
8 regulation, order or decision, in whole or in part, with
9 instructions to the Commission to make the necessary
10 findings or analysis.

11 (iv) The court shall reverse a Commission rule,
12 regulation, order or decision, in whole or in part, if it
13 finds that:

14 A. The findings of the Commission are not supported
15 by substantial evidence based on the entire record of
16 evidence presented to or before the Commission for and
17 against such rule, regulation, order or decision; or

18 B. The rule, regulation, order or decision is
19 without the jurisdiction of the Commission; or

20 C. The rule, regulation, order or decision is in
21 violation of the State or federal constitution or laws;
22 or

23 D. The proceedings or manner by which the
24 Commission considered and decided its rule,
25 regulation, order or decision were in violation of the
26 State or federal constitution or laws, to the prejudice

1 of the appellant.

2 (v) The court may affirm or reverse the rule,
3 regulation, order or decision of the Commission in whole or
4 in part, or ~~to~~ remand the decision in whole or in part
5 where a hearing has been held before the Commission, and ~~to~~
6 state the questions requiring further hearings or
7 proceedings and ~~to~~ give such other instructions as may be
8 proper.

9 (vi) When the court remands a rule, regulation, order
10 or decision of the Commission, in whole or in part, the
11 Commission shall enter its final order with respect to the
12 remanded rule, regulation, order or decision no later than
13 6 months after the date of issuance of the court's mandate.
14 The Commission shall enter its final order, with respect to
15 any remanded matter pending before it on the effective date
16 of this amendatory Act of 1988, no later than 6 months
17 after the effective date of this amendatory Act of 1988.
18 However, when the court mandates, or grants an extension of
19 time which the court determines to be necessary for, the
20 taking of additional evidence, the Commission shall enter
21 an interim order within 6 months after the issuance of the
22 mandate (or within 6 months after the effective date of
23 this amendatory Act of 1988 in the case of a remanded
24 matter pending before it on the effective date of this
25 amendatory Act of 1988), and the Commission shall enter its
26 final order within 5 months after the date the interim

1 order was entered.

2 (f) When no appeal is taken from a rule, regulation, order
3 or decision of the Commission, as herein provided, parties
4 affected by such rule, regulation, order or decision, shall be
5 deemed to have waived the right to have the merits of the
6 controversy reviewed by a court and there shall be no trial of
7 the merits of any controversy in which such rule, regulation,
8 order or decision was made, by any court to which application
9 may be made for the enforcement of the same, or in any other
10 judicial proceedings.

11 (Source: P.A. 96-33, eff. 7-10-09.)

12 (220 ILCS 5/10-204) (from Ch. 111 2/3, par. 10-204)

13 Sec. 10-204. (a) The pendency of an appeal shall not of
14 itself stay or suspend the operation of the rule, regulation,
15 order or decision of the Commission, but during the pendency of
16 the appeal the reviewing court may in its discretion stay or
17 suspend, in whole or in part, the operation of the Commission's
18 rule, regulation, order or decision. Any stocks or stock
19 certificates, bonds, notes, or other evidence of indebtedness
20 issued pursuant to and in accordance with an order of the
21 Commission shall be valid and binding in accordance with their
22 terms notwithstanding such order of the Commission is later
23 vacated, modified, or otherwise held to be wholly or partly
24 invalid unless operation of such order of the Commission has
25 been stayed or suspended by the reviewing court prior to such

1 issuance.

2 (b) No order so staying or suspending a rule, regulation,
3 order or decision of the Commission shall be made by the court
4 otherwise than upon 3 days' notice to the Commission and after
5 a hearing, and if the rule, regulation, order or decision of
6 the Commission is suspended, the order suspending the same
7 shall contain a specific finding based upon evidence submitted
8 to the court, and identified by reference thereto, that great
9 or irreparable damage would otherwise result to the petitioner,
10 and specifying the nature of the damage.

11 (c) In case the rule, regulation, order or decision of the
12 Commission is stayed or suspended, the order of the court shall
13 not become effective until a suspending bond shall first have
14 been executed and filed with, and approved by the Commission
15 (or approved, on review, by the court) payable to the people of
16 the State of Illinois, and sufficient in amount and security to
17 insure the prompt payment, by the party petitioning for the
18 review, of all damages caused by the delay in the enforcement
19 of the rule, regulation, order or decision of the Commission,
20 and of all moneys which any person or corporation may be
21 compelled to pay, pending the review proceedings, for
22 transportation, transmission, product, commodity or service in
23 excess of the charges fixed by the rule, regulation, order or
24 decision of the Commission, in case said rule, regulation,
25 order or decision is sustained. However, no bond shall be
26 required in the case of any stay or suspension granted on

1 application of the State or people of the State, represented by
2 the Attorney General or Public Counsel, or of any city or other
3 governmental body. The court in case it stays or suspends the
4 rule, regulation, order or decision of the Commission in any
5 manner affecting rates or other charges or classifications, may
6 in its discretion, also by order direct the public utility
7 affected to pay into court, from time to time thereto to be
8 impounded until the final decision of the case or into some
9 bank or trust company paying interest on deposits, under such
10 conditions as the court may prescribe, all sums of money which
11 it may collect from any corporation or person in excess of the
12 sum such corporation or person would have been compelled to pay
13 if the rule, regulation, order or decision of the Commission
14 had not been stayed or suspended.

15 (d) When any rate or other charge has been in force for any
16 length of time exceeding one year, and that rate or other
17 charge is advanced by the public utility and the order of the
18 Commission reinstates that ~~such~~ prior rate or other charge, in
19 whole or in part, no suspending order shall be allowed in any
20 case from the reinstating order pending the final determination
21 of the case in the reviewing court, pending the final
22 determination by such reviewing court.

23 (Source: P.A. 84-617.)

24 (220 ILCS 5/13-401.1)

25 (Section scheduled to be repealed on December 31, 2020)

1 Sec. 13-401.1. Interconnected voice over Internet protocol
2 (VoIP) service surchage ~~provider registration.~~

3 ~~(a) An Interconnected VoIP provider providing fixed or~~
4 ~~non-nomadic service in Illinois on December 1, 2010 shall~~
5 ~~register with the Commission no later than January 1, 2011. All~~
6 ~~other Interconnected VoIP providers providing fixed or~~
7 ~~non-nomadic service in Illinois shall register with the~~
8 ~~Commission at least 30 days before providing service in~~
9 ~~Illinois. The Commission shall prescribe a registration form no~~
10 ~~later than October 1, 2010. The registration form prescribed by~~
11 ~~the Commission shall only require the following information:~~

12 ~~(1) the provider's legal name and any name under which~~
13 ~~the provider does or will do business in Illinois, as~~
14 ~~authorized by the Secretary of State;~~

15 ~~(2) the provider's address and telephone number, along~~
16 ~~with contact information for the person responsible for~~
17 ~~ongoing communications with the Commission;~~

18 ~~(3) a description of the provider's dispute resolution~~
19 ~~process and, if any, the telephone number to initiate the~~
20 ~~dispute resolution process; and~~

21 ~~(4) a description of each exchange of a local exchange~~
22 ~~company, in whole or in part, or the cities, towns, or~~
23 ~~geographic areas, in whole or in part, in which the~~
24 ~~provider is offering or proposes to offer Interconnected~~
25 ~~VoIP service.~~

26 ~~A provider must notify the Commission of any change in the~~

1 ~~information identified in paragraphs (1), (2), (3), or (4) of~~
2 ~~this subsection (a) within 5 business days after any such~~
3 ~~change.~~

4 An interconnected voice over Internet protocol ~~(b)~~ A
5 provider shall charge and collect from its end-user customers,
6 and remit to the appropriate authority, fees and surcharges in
7 the same manner as are charged and collected upon end-user
8 customers of local exchange telecommunications service and
9 remitted by local exchange telecommunications companies for
10 local enhanced 9-1-1 surcharges.

11 ~~(c) A provider may designate information that it submits in~~
12 ~~its registration form or subsequent reports as confidential or~~
13 ~~proprietary, provided that the provider states the reasons the~~
14 ~~confidential designation is necessary. The Commission shall~~
15 ~~provide adequate protection for such information pursuant to~~
16 ~~Section 4-404 of this Act. If the Commission or any other party~~
17 ~~seeks public disclosure of information designated as~~
18 ~~confidential, the Commission shall consider the confidential~~
19 ~~designation in a proceeding under the Illinois Administrative~~
20 ~~Procedure Act, and the burden of proof to demonstrate that the~~
21 ~~designated information is confidential shall be upon the~~
22 ~~provider. Designated information shall remain confidential~~
23 ~~pending the Commission's determination of whether the~~
24 ~~information is entitled to confidential treatment. Information~~
25 ~~designated as confidential shall be provided to local units of~~
26 ~~government for purposes of assessing compliance with this~~

1 ~~Article as permitted under a protective order issued by the~~
2 ~~Commission pursuant to the Commission's rules and to the~~
3 ~~Attorney General pursuant to Section 6.5 of the Attorney~~
4 ~~General Act. Information designated as confidential under this~~
5 ~~Section or determined to be confidential upon Commission review~~
6 ~~shall only be disclosed pursuant to a valid and enforceable~~
7 ~~subpoena or court order or as required by the Freedom of~~
8 ~~Information Act.~~

9 ~~(d) Notwithstanding any other provision of law to the~~
10 ~~contrary, the Commission shall have the authority, after notice~~
11 ~~and hearing, to revoke or suspend the registration of any~~
12 ~~provider that fails to comply with the requirements of this~~
13 ~~Section.~~

14 ~~(e) The provisions of this Section are severable under~~
15 ~~Section 1.31 of the Statute on Statutes.~~

16 (Source: P.A. 100-20, eff. 7-1-17.)

17 (220 ILCS 5/13-506.2)

18 (Section scheduled to be repealed on December 31, 2020)

19 Sec. 13-506.2. Market regulation for competitive retail
20 services.

21 (a) Definitions. As used in this Section:

22 (1) "Electing Provider" means a telecommunications
23 carrier that is subject to either rate regulation pursuant
24 to Section 13-504 or Section 13-505 or alternative
25 regulation pursuant to Section 13-506.1 and that elects to

1 have the rates, terms, and conditions of its competitive
2 retail telecommunications services solely determined and
3 regulated pursuant to the terms of this Article.

4 (2) "Basic local exchange service" means either a
5 stand-alone residence network access line and per-call
6 usage or, for any geographic area in which such stand-alone
7 service is not offered, a stand-alone flat rate residence
8 network access line for which local calls are not charged
9 for frequency or duration. Extended Area Service shall be
10 included in basic local exchange service.

11 (3) "Existing customer" means a residential customer
12 who was subscribing to one of the optional packages
13 described in subsection (d) of this Section as of the
14 effective date of this amendatory Act of the 99th General
15 Assembly. A customer who was subscribing to one of the
16 optional packages on that date but stops subscribing
17 thereafter shall not be considered an "existing customer"
18 as of the date the customer stopped subscribing to the
19 optional package, unless the stoppage is temporary and
20 caused by the customer changing service address locations,
21 or unless the customer resumes subscribing and is eligible
22 to receive discounts on monthly telephone service under the
23 federal Lifeline program, 47 C.F.R. Part 54, Subpart E.

24 (4) "New customer" means a residential customer who was
25 not subscribing to one of the optional packages described
26 in subsection (d) of this Section as of the effective date

1 of this amendatory Act of the 99th General Assembly and who
2 is eligible to receive discounts on monthly telephone
3 service under the federal Lifeline program, 47 C.F.R. Part
4 54, Subpart E.

5 (b) Election for market regulation. Notwithstanding any
6 other provision of this Act, an Electing Provider may elect to
7 have the rates, terms, and conditions of its competitive retail
8 telecommunications services solely determined and regulated
9 pursuant to the terms of this Section by filing written notice
10 of its election for market regulation with the Commission. The
11 notice of election shall designate the geographic area of the
12 Electing Provider's service territory where the market
13 regulation shall apply, either on a state-wide basis or in one
14 or more specified Market Service Areas ("MSA") or Exchange
15 areas. An Electing Provider shall not make an election for
16 market regulation under this Section unless it commits in its
17 written notice of election for market regulation to fulfill the
18 conditions and requirements in this Section in each geographic
19 area in which market regulation is elected. Immediately upon
20 filing the notice of election for market regulation, the
21 Electing Provider shall be subject to the jurisdiction of the
22 Commission to the extent expressly provided in this Section.

23 (c) Competitive classification. Market regulation shall be
24 available for competitive retail telecommunications services
25 as provided in this subsection.

26 (1) For geographic areas in which telecommunications

1 services provided by the Electing Provider were classified
2 as competitive either through legislative action or a
3 tariff filing pursuant to Section 13-502 prior to January
4 1, 2010, and that are included in the Electing Provider's
5 notice of election pursuant to subsection (b) of this
6 Section, such services, and all recurring and nonrecurring
7 charges associated with, related to or used in connection
8 with such services, shall be classified as competitive
9 without further Commission review. For services classified
10 as competitive pursuant to this subsection, the
11 requirements or conditions in any order or decision
12 rendered by the Commission pursuant to Section 13-502 prior
13 to the effective date of this amendatory Act of the 96th
14 General Assembly, except for the commitments made by the
15 Electing Provider in such order or decision concerning the
16 optional packages required in subsection (d) of this
17 Section and basic local exchange service as defined in this
18 Section, shall no longer be in effect and no Commission
19 investigation, review, or proceeding under Section 13-502
20 shall be continued, conducted, or maintained with respect
21 to such services, charges, requirements, or conditions. If
22 an Electing Provider has ceased providing optional
23 packages to customers pursuant to subdivision (d)(8) of
24 this Section, the commitments made by the Electing Provider
25 in such order or decision concerning the optional packages
26 under subsection (d) of this Section shall no longer be in

1 effect and no Commission investigation, review, or
2 proceeding under Section 13-502 shall be continued,
3 conducted, or maintained with respect to such packages.

4 (2) For those geographic areas in which residential
5 local exchange telecommunications services have not been
6 classified as competitive as of the effective date of this
7 amendatory Act of the 96th General Assembly, all
8 telecommunications services provided to residential and
9 business end users by an Electing Provider in the
10 geographic area that is included in its notice of election
11 pursuant to subsection (b) shall be classified as
12 competitive for purposes of this Article without further
13 Commission review.

14 (3) If an Electing Provider was previously subject to
15 alternative regulation pursuant to Section 13-506.1 of
16 this Article, the alternative regulation plan shall
17 terminate in whole for all services subject to that plan
18 and be of no force or effect, without further Commission
19 review or action, when the Electing Provider's residential
20 local exchange telecommunications service in each MSA in
21 its telecommunications service area in the State has been
22 classified as competitive pursuant to either subdivision
23 (c) (1) or (c) (2) of this Section.

24 (4) The service packages described in Section 13-518
25 shall be classified as competitive for purposes of this
26 Section if offered by an Electing Provider in a geographic

1 area in which local exchange telecommunications service
2 has been classified as competitive pursuant to either
3 subdivision (c)(1) or (c)(2) of this Section.

4 (5) Where a service, or its functional equivalent, or a
5 substitute service offered by a carrier that is not an
6 Electing Provider or the incumbent local exchange carrier
7 for that area is also being offered by an Electing Provider
8 for some identifiable class or group of customers in an
9 exchange, group of exchanges, or some other clearly defined
10 geographical area, the service offered by a carrier that is
11 not an Electing Provider or the incumbent local exchange
12 carrier for that area shall be classified as competitive
13 without further Commission review.

14 (6) Notwithstanding any other provision of this Act,
15 retail telecommunications services classified as
16 competitive pursuant to Section 13-502 or subdivision
17 (c)(5) of this Section shall have their rates, terms, and
18 conditions solely determined and regulated pursuant to the
19 terms of this Section in the same manner and to the same
20 extent as the competitive retail telecommunications
21 services of an Electing Provider, except that subsections
22 (d), (g), and (j) of this Section shall not apply to a
23 carrier that is not an Electing Provider or to the
24 competitive telecommunications services of a carrier that
25 is not an Electing Provider. The access services of a
26 carrier that is not an Electing Provider shall remain

1 subject to Section 13-900.2. The requirements in
2 subdivision (e)(3) of this Section shall not apply to
3 retail telecommunications services classified as
4 competitive pursuant to Section 13-502 or subdivision
5 (c)(5) of this Section, except that, upon request from the
6 Commission, the telecommunications carrier providing
7 competitive retail telecommunications services shall
8 provide a report showing the number of credits and
9 exemptions for the requested time period.

10 (d) Consumer choice safe harbor options.

11 (1) Subject to subdivision (d)(8) of this Section, an
12 Electing Provider in each of the MSA or Exchange areas
13 classified as competitive pursuant to subdivision (c)(1)
14 or (c)(2) of this Section shall offer to all residential
15 customers who choose to subscribe the following optional
16 packages of services priced at the same rate levels in
17 effect on January 1, 2010:

18 (A) A basic package, which shall consist of a
19 stand-alone residential network access line and 30
20 local calls. If the Electing Provider offers a
21 stand-alone residential access line and local usage on
22 a per call basis, the price for the basic package shall
23 be the Electing Provider's applicable price in effect
24 on January 1, 2010 for the sum of a residential access
25 line and 30 local calls, additional calls over 30 calls
26 shall be provided at the current per call rate.

1 However, this basic package is not required if
2 stand-alone residential network access lines or
3 per-call local usage are not offered by the Electing
4 Provider in the geographic area on January 1, 2010 or
5 if the Electing Provider has not increased its
6 stand-alone network access line and local usage rates,
7 including Extended Area Service rates, since January
8 1, 2010.

9 (B) An extra package, which shall consist of
10 residential basic local exchange network access line
11 and unlimited local calls. The price for the extra
12 package shall be the Electing Provider's applicable
13 price in effect on January 1, 2010 for a residential
14 access line with unlimited local calls.

15 (C) A plus package, which shall consist of
16 residential basic local exchange network access line,
17 unlimited local calls, and the customer's choice of 2
18 vertical services offered by the Electing Provider.
19 The term "vertical services" as used in this
20 subsection, includes, but is not limited to, call
21 waiting, call forwarding, 3-way calling, caller ID,
22 call tracing, automatic callback, repeat dialing, and
23 voicemail. The price for the plus package shall be the
24 Electing Provider's applicable price in effect on
25 January 1, 2010 for the sum of a residential access
26 line with unlimited local calls and 2 times the average

1 price for the vertical features included in the
2 package.

3 (2) Subject to subdivision (d) (8) of this Section, for
4 those geographic areas in which local exchange
5 telecommunications services were classified as competitive
6 on the effective date of this amendatory Act of the 96th
7 General Assembly, an Electing Provider in each such MSA or
8 Exchange area shall be subject to the same terms and
9 conditions as provided in commitments made by the Electing
10 Provider in connection with such previous competitive
11 classifications, which shall apply with equal force under
12 this Section, except as follows: (i) the limits on price
13 increases on the optional packages required by this Section
14 shall be extended consistent with subsection (d) (1) of this
15 Section and (ii) the price for the extra package required
16 by subsection (d) (1) (B) shall be reduced by one dollar from
17 the price in effect on January 1, 2010. In addition, if an
18 Electing Provider obtains a competitive classification
19 pursuant to subsection (c) (1) and (c) (2), the price for the
20 optional packages shall be determined in such area in
21 compliance with subsection (d) (1), except the price for the
22 plus package required by subsection (d) (1) (C) shall be the
23 lower of the price for such area or the price of the plus
24 package in effect on January 1, 2010 for areas classified
25 as competitive pursuant to subsection (c) (1).

26 (3) To the extent that the requirements in Section

1 13-518 applied to a telecommunications carrier prior to the
2 effective date of this Section and that telecommunications
3 carrier becomes an Electing Provider in accordance with the
4 provisions of this Section, the requirements in Section
5 13-518 shall cease to apply to that Electing Provider in
6 those geographic areas included in the Electing Provider's
7 notice of election pursuant to subsection (b) of this
8 Section.

9 (4) Subject to subdivision (d)(8) of this Section, an
10 Electing Provider shall make the optional packages
11 required by this subsection and stand-alone residential
12 network access lines and local usage, where offered,
13 readily available to the public by providing information,
14 in a clear manner, to residential customers. Information
15 shall be made available on a website, and an Electing
16 Provider shall provide notification to its customers every
17 6 months, provided that notification may consist of a bill
18 page message that provides an objective description of the
19 safe harbor options that includes a telephone number and
20 website address where the customer may obtain additional
21 information about the packages from the Electing Provider.
22 The optional packages shall be offered on a monthly basis
23 with no term of service requirement. An Electing Provider
24 shall allow online electronic ordering of the optional
25 packages and stand-alone residential network access lines
26 and local usage, where offered, on its website in a manner

1 similar to the online electronic ordering of its other
2 residential services.

3 (5) Subject to subdivision (d)(8) of this Section, an
4 Electing Provider shall comply with the Commission's
5 existing rules, regulations, and notices in Title 83, Part
6 735 of the Illinois Administrative Code when offering or
7 providing the optional packages required by this
8 subsection (d) and stand-alone residential network access
9 lines.

10 (6) Subject to subdivision (d)(8) of this Section, an
11 Electing Provider shall provide to the Commission
12 semi-annual subscribership reports as of June 30 and
13 December 31 that contain the number of its customers
14 subscribing to each of the consumer choice safe harbor
15 packages required by subsection (d)(1) of this Section and
16 the number of its customers subscribing to retail
17 residential basic local exchange service as defined in
18 subsection (a)(2) of this Section. The first semi-annual
19 reports shall be made on April 1, 2011 for December 31,
20 2010, and on September 1, 2011 for June 30, 2011, and
21 semi-annually on April 1 and September 1 thereafter. Such
22 subscribership information shall be accorded confidential
23 and proprietary treatment upon request by the Electing
24 Provider.

25 (7) The Commission shall have the power, after notice
26 and hearing as provided in this Article, upon complaint or

1 upon its own motion, to take corrective action if the
2 requirements of this Section are not complied with by an
3 Electing Provider.

4 (8) On and after the effective date of this amendatory
5 Act of the 99th General Assembly, an Electing Provider
6 shall continue to offer and provide the optional packages
7 described in this subsection (d) to existing customers and
8 new customers. On and after July 1, 2017, an Electing
9 Provider may immediately stop offering the optional
10 packages described in this subsection (d) and, upon
11 providing two notices to affected customers and to the
12 Commission, may stop providing the optional packages
13 described in this subsection (d) to all customers who
14 subscribe to one of the optional packages. The first notice
15 shall be provided at least 90 days before the date upon
16 which the Electing Provider intends to stop providing the
17 optional packages, and the second notice must be provided
18 at least 30 days before that date. The first notice shall
19 not be provided prior to July 1, 2017. Each notice must
20 identify the date on which the Electing Provider intends to
21 stop providing the optional packages, at least one
22 alternative service available to the customer, and a
23 telephone number by which the customer may contact a
24 service representative of the Electing Provider. After
25 July 1, 2017 with respect to new customers, and upon the
26 expiration of the second notice period with respect to

1 customers who were subscribing to one of the optional
2 packages, subdivisions (d)(1), (d)(2), (d)(4), (d)(5),
3 (d)(6), and (d)(7) of this Section shall not apply to the
4 Electing Provider. Notwithstanding any other provision of
5 this Article, an Electing Provider that has ceased
6 providing the optional packages under this subdivision
7 (d)(8) is not subject to Section 13-301(1)(c) of this Act.
8 Notwithstanding any other provision of this Act, and
9 subject to subdivision (d)(7) of this Section, the
10 Commission's authority over the discontinuance of the
11 optional packages described in this subsection (d) by an
12 Electing Provider shall be governed solely by this
13 subsection (d)(8).

14 (e) Service quality and customer credits for basic local
15 exchange service.

16 (1) An Electing Provider shall meet the following
17 service quality standards in providing basic local
18 exchange service, which for purposes of this subsection
19 (e), includes both basic local exchange service and any
20 consumer choice safe harbor options that may be required by
21 subsection (d) of this Section.

22 (A) Install basic local exchange service within 5
23 business days after receipt of an order from the
24 customer unless the customer requests an installation
25 date that is beyond 5 business days after placing the
26 order for basic service and to inform the customer of

1 the Electing Provider's duty to install service within
2 this timeframe. If installation of service is
3 requested on or by a date more than 5 business days in
4 the future, the Electing Provider shall install
5 service by the date requested.

6 (B) Restore basic local exchange service for the
7 customer within 30 hours after receiving notice that
8 the customer is out of service.

9 (C) Keep all repair and installation appointments
10 for basic local exchange service if a customer premises
11 visit requires a customer to be present. The
12 appointment window shall be either a specific time or,
13 at a maximum, a 4-hour time block during evening,
14 weekend, and normal business hours.

15 (D) Inform a customer when a repair or installation
16 appointment requires the customer to be present.

17 (2) Customers shall be credited by the Electing
18 Provider for violations of basic local exchange service
19 quality standards described in subdivision (e)(1) of this
20 Section. The credits shall be applied automatically on the
21 statement issued to the customer for the next monthly
22 billing cycle following the violation or following the
23 discovery of the violation. The next monthly billing cycle
24 following the violation or the discovery of the violation
25 means the billing cycle immediately following the billing
26 cycle in process at the time of the violation or discovery

1 of the violation, provided the total time between the
2 violation or discovery of the violation and the issuance of
3 the credit shall not exceed 60 calendar days. The Electing
4 Provider is responsible for providing the credits and the
5 customer is under no obligation to request such credits.
6 The following credits shall apply:

7 (A) If an Electing Provider fails to repair an
8 out-of-service condition for basic local exchange
9 service within 30 hours, the Electing Provider shall
10 provide a credit to the customer. If the service
11 disruption is for more than 30 hours, but not more than
12 48 hours, the credit must be equal to a pro-rata
13 portion of the monthly recurring charges for all basic
14 local exchange services disrupted. If the service
15 disruption is for more than 48 hours, but not more than
16 72 hours, the credit must be equal to at least 33% of
17 one month's recurring charges for all local services
18 disrupted. If the service disruption is for more than
19 72 hours, but not more than 96 hours, the credit must
20 be equal to at least 67% of one month's recurring
21 charges for all basic local exchange services
22 disrupted. If the service disruption is for more than
23 96 hours, but not more than 120 hours, the credit must
24 be equal to one month's recurring charges for all basic
25 local exchange services disrupted. For each day or
26 portion thereof that the service disruption continues

1 beyond the initial 120-hour period, the Electing
2 Provider shall also provide an additional credit of \$20
3 per calendar day.

4 (B) If an Electing Provider fails to install basic
5 local exchange service as required under subdivision
6 (e) (1) of this Section, the Electing Provider shall
7 waive 50% of any installation charges, or in the
8 absence of an installation charge or where
9 installation is pursuant to the Link Up program, the
10 Electing Provider shall provide a credit of \$25. If an
11 Electing Provider fails to install service within 10
12 business days after the service application is placed,
13 or fails to install service within 5 business days
14 after the customer's requested installation date, if
15 the requested date was more than 5 business days after
16 the date of the order, the Electing Provider shall
17 waive 100% of the installation charge, or in the
18 absence of an installation charge or where
19 installation is provided pursuant to the Link Up
20 program, the Electing Provider shall provide a credit
21 of \$50. For each day that the failure to install
22 service continues beyond the initial 10 business days,
23 or beyond 5 business days after the customer's
24 requested installation date, if the requested date was
25 more than 5 business days after the date of the order,
26 the Electing Provider shall also provide an additional

1 credit of \$20 per calendar day until the basic local
2 exchange service is installed.

3 (C) If an Electing Provider fails to keep a
4 scheduled repair or installation appointment when a
5 customer premises visit requires a customer to be
6 present as required under subdivision (e)(1) of this
7 Section, the Electing Provider shall credit the
8 customer \$25 per missed appointment. A credit required
9 by this subdivision does not apply when the Electing
10 Provider provides the customer notice of its inability
11 to keep the appointment no later than 8:00 pm of the
12 day prior to the scheduled date of the appointment.

13 (D) Credits required by this subsection do not
14 apply if the violation of a service quality standard:

15 (i) occurs as a result of a negligent or
16 willful act on the part of the customer;

17 (ii) occurs as a result of a malfunction of
18 customer-owned telephone equipment or inside
19 wiring;

20 (iii) occurs as a result of, or is extended by,
21 an emergency situation as defined in 83 Ill. Adm.
22 Code 732.10;

23 (iv) is extended by the Electing Provider's
24 inability to gain access to the customer's
25 premises due to the customer missing an
26 appointment, provided that the violation is not

1 further extended by the Electing Provider;

2 (v) occurs as a result of a customer request to
3 change the scheduled appointment, provided that
4 the violation is not further extended by the
5 Electing Provider;

6 (vi) occurs as a result of an Electing
7 Provider's right to refuse service to a customer as
8 provided in Commission rules; or

9 (vii) occurs as a result of a lack of
10 facilities where a customer requests service at a
11 geographically remote location, where a customer
12 requests service in a geographic area where the
13 Electing Provider is not currently offering
14 service, or where there are insufficient
15 facilities to meet the customer's request for
16 service, subject to an Electing Provider's
17 obligation for reasonable facilities planning.

18 (3) Each Electing Provider shall provide to the
19 Commission on a quarterly basis and in a form suitable for
20 posting on the Commission's website in conformance with the
21 rules adopted by the Commission and in effect on April 1,
22 2010, a public report that includes the following data for
23 basic local exchange service quality of service:

24 (A) With regard to credits due in accordance with
25 subdivision (e) (2) (A) as a result of out-of-service
26 conditions lasting more than 30 hours:

1 (i) the total dollar amount of any customer
2 credits paid;

3 (ii) the number of credits issued for repairs
4 between 30 and 48 hours;

5 (iii) the number of credits issued for repairs
6 between 49 and 72 hours;

7 (iv) the number of credits issued for repairs
8 between 73 and 96 hours;

9 (v) the number of credits used for repairs
10 between 97 and 120 hours;

11 (vi) the number of credits issued for repairs
12 greater than 120 hours; and

13 (vii) the number of exemptions claimed for
14 each of the categories identified in subdivision
15 (e) (2) (D).

16 (B) With regard to credits due in accordance with
17 subdivision (e) (2) (B) as a result of failure to install
18 basic local exchange service:

19 (i) the total dollar amount of any customer
20 credits paid;

21 (ii) the number of installations after 5
22 business days;

23 (iii) the number of installations after 10
24 business days;

25 (iv) the number of installations after 11
26 business days; and

1 (v) the number of exemptions claimed for each
2 of the categories identified in subdivision
3 (e) (2) (D) .

4 (C) With regard to credits due in accordance with
5 subdivision (e) (2) (C) as a result of missed
6 appointments:

7 (i) the total dollar amount of any customer
8 credits paid;

9 (ii) the number of any customers receiving
10 credits; and

11 (iii) the number of exemptions claimed for
12 each of the categories identified in subdivision
13 (e) (2) (D) .

14 (D) The Electing Provider's annual report required
15 by this subsection shall also include, for
16 informational reporting, the performance data
17 described in subdivisions (e) (2) (A), (e) (2) (B), and
18 (e) (2) (C), and trouble reports per 100 access lines
19 calculated using the Commission's existing applicable
20 rules and regulations for such measures, including the
21 requirements for service standards established in this
22 Section.

23 (4) It is the intent of the General Assembly that the
24 service quality rules and customer credits in this
25 subsection (e) of this Section and other enforcement
26 mechanisms, including fines and penalties authorized by

1 Section 13-305, shall apply on a nondiscriminatory basis to
2 all Electing Providers. Accordingly, notwithstanding any
3 provision of any service quality rules promulgated by the
4 Commission, any alternative regulation plan adopted by the
5 Commission, or any other order of the Commission, any
6 Electing Provider that is subject to any other order of the
7 Commission and that violates or fails to comply with the
8 service quality standards promulgated pursuant to this
9 subsection (e) or any other order of the Commission shall
10 not be subject to any fines, penalties, customer credits,
11 or enforcement mechanisms other than such fines or
12 penalties or customer credits as may be imposed by the
13 Commission in accordance with the provisions of this
14 subsection (e) and Section 13-305, which are to be
15 generally applicable to all Electing Providers. The amount
16 of any fines or penalties imposed by the Commission for
17 failure to comply with the requirements of this subsection
18 (e) shall be an appropriate amount, taking into account, at
19 a minimum, the Electing Provider's gross annual intrastate
20 revenue; the frequency, duration, and recurrence of the
21 violation; and the relative harm caused to the affected
22 customers or other users of the network. In imposing fines
23 and penalties, the Commission shall take into account
24 compensation or credits paid by the Electing Provider to
25 its customers pursuant to this subsection (e) in
26 compensation for any violation found pursuant to this

1 subsection (e), and in any event the fine or penalty shall
2 not exceed an amount equal to the maximum amount of a civil
3 penalty that may be imposed under Section 13-305.

4 (5) An Electing Provider in each of the MSA or Exchange
5 areas classified as competitive pursuant to subsection (c)
6 of this Section shall fulfill the requirements in
7 subdivision (e)(3) of this Section for 3 years after its
8 notice of election becomes effective. After such 3 years,
9 the requirements in subdivision (e)(3) of this Section
10 shall not apply to such Electing Provider, except that,
11 upon request from the Commission, the Electing Provider
12 shall provide a report showing the number of credits and
13 exemptions for the requested time period.

14 (f) Commission jurisdiction over competitive retail
15 telecommunications services. Except as otherwise expressly
16 stated in this Section, the Commission shall thereafter have no
17 jurisdiction or authority over any aspect of competitive retail
18 telecommunications service of an Electing Provider in those
19 geographic areas included in the Electing Provider's notice of
20 election pursuant to subsection (b) of this Section or of a
21 retail telecommunications service classified as competitive
22 pursuant to Section 13-502 or subdivision (c)(5) of this
23 Section, heretofore subject to the jurisdiction of the
24 Commission, including but not limited to, any requirements of
25 this Article related to the terms, conditions, rates, quality
26 of service, availability, classification or any other aspect of

1 any competitive retail telecommunications services. No
2 telecommunications carrier shall commit any unfair or
3 deceptive act or practice in connection with any aspect of the
4 offering or provision of any competitive retail
5 telecommunications service. Nothing in this Article shall
6 limit or affect any provisions in the Consumer Fraud and
7 Deceptive Business Practices Act with respect to any unfair or
8 deceptive act or practice by a telecommunications carrier.

9 (g) Commission authority over access services upon
10 election for market regulation.

11 (1) As part of its Notice of Election for Market
12 Regulation, the Electing Provider shall reduce its
13 intrastate switched access rates to rates no higher than
14 its interstate switched access rates in 4 installments. The
15 first reduction must be made 30 days after submission of
16 its complete application for Notice of Election for Market
17 Regulation, and the Electing Provider must reduce its
18 intrastate switched access rates by an amount equal to 33%
19 of the difference between its current intrastate switched
20 access rates and its current interstate switched access
21 rates. The second reduction must be made no later than one
22 year after the first reduction, and the Electing Provider
23 must reduce its then current intrastate switched access
24 rates by an amount equal to 41% of the difference between
25 its then current intrastate switched access rates and its
26 then current interstate switched access rates. The third

1 reduction must be made no later than one year after the
2 second reduction, and the Electing Provider must reduce its
3 then current intrastate switched access rates by an amount
4 equal to 50% of the difference between its then current
5 intrastate switched access rate and its then current
6 interstate switched access rates. The fourth reduction
7 must be made on or before June 30, 2013, and the Electing
8 Provider must reduce its intrastate switched access rate to
9 mirror its then current interstate switched access rates
10 and rate structure. Following the fourth reduction, each
11 Electing Provider must continue to set its intrastate
12 switched access rates to mirror its interstate switched
13 access rates and rate structure. For purposes of this
14 subsection, the rate for intrastate switched access
15 service means the composite, per-minute rate for that
16 service, including all applicable fixed and
17 traffic-sensitive charges, including, but not limited to,
18 carrier common line charges.

19 (2) Nothing in paragraph (1) of this subsection (g)
20 prohibits an Electing Provider from electing to offer
21 intrastate switched access service at rates lower than its
22 interstate switched access rates.

23 (3) The Commission shall have no authority to order an
24 Electing Provider to set its rates for intrastate switched
25 access at a level lower than its interstate switched access
26 rates.

1 (4) The Commission's authority under this subsection
2 (g) shall only apply to Electing Providers under Market
3 Regulation. The Commission's authority over switched
4 access services for all other carriers is retained under
5 Section 13-900.2 of this Act.

6 (h) Safety of service equipment and facilities.

7 (1) An Electing Provider shall furnish, provide, and
8 maintain such service instrumentalities, equipment, and
9 facilities as shall promote the safety, health, comfort,
10 and convenience of its patrons, employees, and public and
11 as shall be in all respects adequate, reliable, and
12 efficient without discrimination or delay. Every Electing
13 Provider shall provide service and facilities that are in
14 all respects environmentally safe.

15 (2) The Commission is authorized to conduct an
16 investigation of any Electing Provider or part thereof. The
17 investigation may examine the reasonableness, prudence, or
18 efficiency of any aspect of the Electing Provider's
19 operations or functions that may affect the adequacy,
20 safety, efficiency, or reliability of telecommunications
21 service. The Commission may conduct or order an
22 investigation only when it has reasonable grounds to
23 believe that the investigation is necessary to assure that
24 the Electing Provider is providing adequate, efficient,
25 reliable, and safe service. The Commission shall, before
26 initiating any such investigation, issue an order

1 describing the grounds for the investigation and the
2 appropriate scope and nature of the investigation, which
3 shall be reasonably related to the grounds relied upon by
4 the Commission in its order.

5 (i) (Blank).

6 (j) Application of Article VII. The provisions of Sections
7 7-101, 7-102, 7-104, 7-204, 7-205, and 7-206 of this Act are
8 applicable to an Electing Provider offering or providing retail
9 telecommunications service, and the Commission's regulation
10 thereof, except that (1) the approval of contracts and
11 arrangements with affiliated interests required by paragraph
12 (3) of Section 7-101 shall not apply to such telecommunications
13 carriers provided that, except as provided in item (2), those
14 contracts and arrangements shall be filed with the Commission;
15 (2) affiliated interest contracts or arrangements entered into
16 by such telecommunications carriers where the increased
17 obligation thereunder does not exceed the lesser of \$5,000,000
18 or 5% of such carrier's prior annual revenue from
19 noncompetitive services are not required to be filed with the
20 Commission; and (3) any consent and approval of the Commission
21 required by Section 7-102 is not required for the sale, lease,
22 assignment, or transfer by any Electing Provider of any
23 property that is not necessary or useful in the performance of
24 its duties to the public.

25 (k) Notwithstanding other provisions of this Section, the
26 Commission retains its existing authority to enforce the

1 provisions, conditions, and requirements of the following
2 Sections of this Article: 13-101, 13-103, 13-201, 13-301,
3 13-301.1, 13-301.2, 13-301.3, 13-303, 13-303.5, 13-304,
4 13-305, 13-401, 13-401.1, 13-402, 13-403, 13-404, 13-404.1,
5 13-404.2, 13-405, 13-406, ~~13-407~~, 13-501, 13-501.5, 13-503,
6 13-505, 13-509, 13-510, 13-512, 13-513, 13-514, 13-515,
7 13-516, 13-519, 13-702, 13-703, 13-704, 13-705, 13-706,
8 13-707, 13-709, 13-713, 13-801, 13-802.1, 13-804, 13-900,
9 13-900.1, 13-900.2, 13-901, 13-902, and 13-903, which are fully
10 and equally applicable to Electing Providers and to
11 telecommunications carriers providing retail
12 telecommunications service classified as competitive pursuant
13 to Section 13-502 or subdivision (c) (5) of this Section subject
14 to the provisions of this Section. On the effective date of
15 this amendatory Act of the 98th General Assembly, the following
16 Sections of this Article shall cease to apply to Electing
17 Providers and to telecommunications carriers providing retail
18 telecommunications service classified as competitive pursuant
19 to Section 13-502 or subdivision (c) (5) of this Section:
20 13-302, 13-405.1, 13-502, 13-502.5, 13-504, 13-505.2,
21 13-505.3, 13-505.4, 13-505.5, 13-505.6, 13-506.1, 13-507,
22 13-507.1, 13-508, 13-508.1, 13-517, 13-518, 13-601, 13-701,
23 and 13-712.

24 (Source: P.A. 99-6, eff. 6-29-15; 100-20, eff. 7-1-17.)

1 (Section scheduled to be repealed on December 31, 2020)

2 Sec. 13-515. Enforcement.

3 (a) The following expedited procedures shall be used to
4 enforce the provisions of Section 13-514 of this Act, provided
5 that, for a violation of paragraph (8) of Section 13-514 to
6 qualify for the expedited procedures of this Section, the
7 violation must be in a manner that unreasonably delays,
8 increases the cost, or impedes the availability of
9 telecommunications services to consumers. However, the
10 Commission, the complainant, and the respondent may mutually
11 agree to adjust the procedures established in this Section.

12 (b) (Blank).

13 (c) No complaint may be filed under this Section until the
14 complainant has first notified the respondent of the alleged
15 violation and offered the respondent 48 hours to correct the
16 situation. Provision of notice and the opportunity to correct
17 the situation creates a rebuttable presumption of knowledge
18 under Section 13-514. After the filing of a complaint under
19 this Section, the parties may agree to follow the mediation
20 process under Section 10-101.1 of this Act. The time periods
21 specified in subdivision (d) (7) of this Section shall be tolled
22 during the time spent in mediation under Section 10-101.1.

23 (d) A telecommunications carrier may file a complaint with
24 the Commission alleging a violation of Section 13-514 in
25 accordance with this subsection:

26 (1) The complaint shall be filed with the Chief Clerk

1 of the Commission and shall be served in hand upon the
2 respondent, the executive director, and the general
3 counsel of the Commission at the time of the filing.

4 (2) A complaint filed under this subsection shall
5 include a statement that the requirements of subsection (c)
6 have been fulfilled and that the respondent did not correct
7 the situation as requested.

8 (3) Reasonable discovery specific to the issue of the
9 complaint may commence upon filing of the complaint.
10 Requests for discovery must be served in hand and responses
11 to discovery must be provided in hand to the requester
12 within 14 days after a request for discovery is made.

13 (4) An answer and any other responsive pleading to the
14 complaint shall be filed with the Commission and served in
15 hand at the same time upon the complainant, the executive
16 director, and the general counsel of the Commission within
17 7 days after the date on which the complaint is filed.

18 (5) If the answer or responsive pleading raises the
19 issue that the complaint violates subsection (i) of this
20 Section, the complainant may file a reply to such
21 allegation within 3 days after actual service of such
22 answer or responsive pleading. Within 4 days after the time
23 for filing a reply has expired, the hearing officer or
24 arbitrator shall either issue a written decision
25 dismissing the complaint as frivolous in violation of
26 subsection (i) of this Section including the reasons for

1 such disposition or shall issue an order directing that the
2 complaint shall proceed.

3 (6) A pre-hearing conference shall be held within 14
4 days after the date on which the complaint is filed.

5 (7) The hearing shall commence within 30 days of the
6 date on which the complaint is filed. The hearing may be
7 conducted by an administrative law judge ~~a hearing examiner~~
8 or by an arbitrator. Parties and the Commission staff shall
9 be entitled to present evidence and legal argument in oral
10 or written form as deemed appropriate by the administrative
11 law judge ~~hearing examiner~~ or arbitrator. The
12 administrative law judge ~~hearing examiner~~ or arbitrator
13 shall issue a written decision within 60 days after the
14 date on which the complaint is filed. The decision shall
15 include reasons for the disposition of the complaint and,
16 if a violation of Section 13-514 is found, directions and a
17 deadline for correction of the violation.

18 (8) Any party may file a petition requesting the
19 Commission to review the decision of the administrative law
20 judge ~~hearing examiner~~ or arbitrator within 5 days of such
21 decision. Any party may file a response to a petition for
22 review within 3 business days after actual service of the
23 petition. After the time for filing of the petition for
24 review, but no later than 15 days after the decision of the
25 administrative law judge ~~hearing examiner~~ or arbitrator,
26 the Commission shall decide to adopt the decision of the

1 administrative law judge ~~hearing examiner~~ or arbitrator or
2 shall issue its own final order.

3 (e) If the alleged violation has a substantial adverse
4 effect on the ability of the complainant to provide service to
5 customers, the complainant may include in its complaint a
6 request for an order for emergency relief. The Commission,
7 acting through its designated administrative law judge ~~hearing~~
8 ~~examiner~~ or arbitrator, shall act upon such a request within 2
9 business days of the filing of the complaint. An order for
10 emergency relief may be granted, without an evidentiary
11 hearing, upon a verified factual showing that the party seeking
12 relief will likely succeed on the merits, that the party will
13 suffer irreparable harm in its ability to serve customers if
14 emergency relief is not granted, and that the order is in the
15 public interest. An order for emergency relief shall include a
16 finding that the requirements of this subsection have been
17 fulfilled and shall specify the directives that must be
18 fulfilled by the respondent and deadlines for meeting those
19 directives. The decision of the administrative law judge
20 ~~hearing examiner~~ or arbitrator to grant or deny emergency
21 relief shall be considered an order of the Commission unless
22 the Commission enters its own order within 2 calendar days of
23 the decision of the administrative law judge ~~hearing examiner~~
24 or arbitrator. The order for emergency relief may require the
25 responding party to act or refrain from acting so as to protect
26 the provision of competitive service offerings to customers.

1 Any action required by an emergency relief order must be
2 technically feasible and economically reasonable and the
3 respondent must be given a reasonable period of time to comply
4 with the order.

5 (f) The Commission is authorized to obtain outside
6 resources including, but not limited to, arbitrators and
7 consultants for the purposes of the hearings authorized by this
8 Section. Any arbitrator or consultant obtained by the
9 Commission shall be approved by both parties to the hearing.
10 The cost of such outside resources including, but not limited
11 to, arbitrators and consultants shall be borne by the parties.
12 The Commission shall review the bill for reasonableness and
13 assess the parties for reasonable costs dividing the costs
14 according to the resolution of the complaint brought under this
15 Section. Such costs shall be paid by the parties directly to
16 the arbitrators, consultants, and other providers of outside
17 resources within 60 days after receiving notice of the
18 assessments from the Commission. Interest at the statutory rate
19 shall accrue after expiration of the 60-day period. The
20 Commission, arbitrators, consultants, or other providers of
21 outside resources may apply to a court of competent
22 jurisdiction for an order requiring payment.

23 (g) The Commission shall assess the parties under this
24 subsection for all of the Commission's costs of investigation
25 and conduct of the proceedings brought under this Section
26 including, but not limited to, the prorated salaries of staff,

1 attorneys, administrative law judges ~~hearing examiners~~, and
2 support personnel and including any travel and per diem,
3 directly attributable to the complaint brought pursuant to this
4 Section, but excluding those costs provided for in subsection
5 (f), dividing the costs according to the resolution of the
6 complaint brought under this Section. All assessments made
7 under this subsection shall be paid into the Public Utility
8 Fund within 60 days after receiving notice of the assessments
9 from the Commission. Interest at the statutory rate shall
10 accrue after the expiration of the 60 day period. The
11 Commission is authorized to apply to a court of competent
12 jurisdiction for an order requiring payment.

13 (h) If the Commission determines that there is an imminent
14 threat to competition or to the public interest, the Commission
15 may, notwithstanding any other provision of this Act, seek
16 temporary, preliminary, or permanent injunctive relief from a
17 court of competent jurisdiction either prior to or after the
18 hearing.

19 (i) A party shall not bring or defend a proceeding brought
20 under this Section or assert or controvert an issue in a
21 proceeding brought under this Section, unless there is a
22 non-frivolous basis for doing so. By presenting a pleading,
23 written motion, or other paper in complaint or defense of the
24 actions or inaction of a party under this Section, a party is
25 certifying to the Commission that to the best of that party's
26 knowledge, information, and belief, formed after a reasonable

1 inquiry of the subject matter of the complaint or defense, that
2 the complaint or defense is well grounded in law and fact, and
3 under the circumstances:

4 (1) it is not being presented to harass the other
5 party, cause unnecessary delay in the provision of
6 competitive telecommunications services to consumers, or
7 create needless increases in the cost of litigation; and

8 (2) the allegations and other factual contentions have
9 evidentiary support or, if specifically so identified, are
10 likely to have evidentiary support after reasonable
11 opportunity for further investigation or discovery as
12 defined herein.

13 (j) If, after notice and a reasonable opportunity to
14 respond, the Commission determines that subsection (i) has been
15 violated, the Commission shall impose appropriate sanctions
16 upon the party or parties that have violated subsection (i) or
17 are responsible for the violation. The sanctions shall be not
18 more than \$30,000, plus the amount of expenses accrued by the
19 Commission for conducting the hearing. Payment of sanctions
20 imposed under this subsection shall be made to the Common
21 School Fund within 30 days of imposition of such sanctions.

22 (k) An appeal of a Commission Order made pursuant to this
23 Section shall not effectuate a stay of the Order unless a court
24 of competent jurisdiction specifically finds that the party
25 seeking the stay will likely succeed on the merits, that the
26 party will suffer irreparable harm without the stay, and that

1 the stay is in the public interest.

2 (Source: P.A. 100-20, eff. 7-1-17.)

3 (220 ILCS 5/16-108.5)

4 Sec. 16-108.5. Infrastructure investment and
5 modernization; regulatory reform.

6 (a) (Blank).

7 (b) For purposes of this Section, "participating utility"
8 means an electric utility or a combination utility serving more
9 than 1,000,000 customers in Illinois that voluntarily elects
10 and commits to undertake (i) the infrastructure investment
11 program consisting of the commitments and obligations
12 described in this subsection (b) and (ii) the customer
13 assistance program consisting of the commitments and
14 obligations described in subsection (b-10) of this Section,
15 notwithstanding any other provisions of this Act and without
16 obtaining any approvals from the Commission or any other agency
17 other than as set forth in this Section, regardless of whether
18 any such approval would otherwise be required. "Combination
19 utility" means a utility that, as of January 1, 2011, provided
20 electric service to at least one million retail customers in
21 Illinois and gas service to at least 500,000 retail customers
22 in Illinois. A participating utility shall recover the
23 expenditures made under the infrastructure investment program
24 through the ratemaking process, including, but not limited to,
25 the performance-based formula rate and process set forth in

1 this Section.

2 During the infrastructure investment program's peak
3 program year, a participating utility other than a combination
4 utility shall create 2,000 full-time equivalent jobs in
5 Illinois, and a participating utility that is a combination
6 utility shall create 450 full-time equivalent jobs in Illinois
7 related to the provision of electric service. These jobs shall
8 include direct jobs, contractor positions, and induced jobs,
9 but shall not include any portion of a job commitment, not
10 specifically contingent on an amendatory Act of the 97th
11 General Assembly becoming law, between a participating utility
12 and a labor union that existed on December 30, 2011 (the
13 effective date of Public Act 97-646) and that has not yet been
14 fulfilled. A portion of the full-time equivalent jobs created
15 by each participating utility shall include incremental
16 personnel hired subsequent to December 30, 2011 (the effective
17 date of Public Act 97-646). For purposes of this Section, "peak
18 program year" means the consecutive 12-month period with the
19 highest number of full-time equivalent jobs that occurs between
20 the beginning of investment year 2 and the end of investment
21 year 4.

22 A participating utility shall meet one of the following
23 commitments, as applicable:

24 (1) Beginning no later than 180 days after a
25 participating utility other than a combination utility
26 files a performance-based formula rate tariff pursuant to

1 subsection (c) of this Section, or, beginning no later than
2 January 1, 2012 if such utility files such
3 performance-based formula rate tariff within 14 days of
4 October 26, 2011 (the effective date of Public Act 97-616),
5 the participating utility shall, except as provided in
6 subsection (b-5):

7 (A) over a 5-year period, invest an estimated
8 \$1,300,000,000 in electric system upgrades,
9 modernization projects, and training facilities,
10 including, but not limited to:

11 (i) distribution infrastructure improvements
12 totaling an estimated \$1,000,000,000, including
13 underground residential distribution cable
14 injection and replacement and mainline cable
15 system refurbishment and replacement projects;

16 (ii) training facility construction or upgrade
17 projects totaling an estimated \$10,000,000,
18 provided that, at a minimum, one such facility
19 shall be located in a municipality having a
20 population of more than 2 million residents and one
21 such facility shall be located in a municipality
22 having a population of more than 150,000 residents
23 but fewer than 170,000 residents; any such new
24 facility located in a municipality having a
25 population of more than 2 million residents must be
26 designed for the purpose of obtaining, and the

1 owner of the facility shall apply for,
2 certification under the United States Green
3 Building Council's Leadership in Energy Efficiency
4 Design Green Building Rating System;

5 (iii) wood pole inspection, treatment, and
6 replacement programs;

7 (iv) an estimated \$200,000,000 for reducing
8 the susceptibility of certain circuits to
9 storm-related damage, including, but not limited
10 to, high winds, thunderstorms, and ice storms;
11 improvements may include, but are not limited to,
12 overhead to underground conversion and other
13 engineered outcomes for circuits; the
14 participating utility shall prioritize the
15 selection of circuits based on each circuit's
16 historical susceptibility to storm-related damage
17 and the ability to provide the greatest customer
18 benefit upon completion of the improvements; to be
19 eligible for improvement, the participating
20 utility's ability to maintain proper tree
21 clearances surrounding the overhead circuit must
22 not have been impeded by third parties; and

23 (B) over a 10-year period, invest an estimated
24 \$1,300,000,000 to upgrade and modernize its
25 transmission and distribution infrastructure and in
26 Smart Grid electric system upgrades, including, but

1 not limited to:

2 (i) additional smart meters;

3 (ii) distribution automation;

4 (iii) associated cyber secure data
5 communication network; and

6 (iv) substation micro-processor relay
7 upgrades.

8 (2) Beginning no later than 180 days after a
9 participating utility that is a combination utility files a
10 performance-based formula rate tariff pursuant to
11 subsection (c) of this Section, or, beginning no later than
12 January 1, 2012 if such utility files such
13 performance-based formula rate tariff within 14 days of
14 October 26, 2011 (the effective date of Public Act 97-616),
15 the participating utility shall, except as provided in
16 subsection (b-5):

17 (A) over a 10-year period, invest an estimated
18 \$265,000,000 in electric system upgrades,
19 modernization projects, and training facilities,
20 including, but not limited to:

21 (i) distribution infrastructure improvements
22 totaling an estimated \$245,000,000, which may
23 include bulk supply substations, transformers,
24 reconductoring, and rebuilding overhead
25 distribution and sub-transmission lines,
26 underground residential distribution cable

1 injection and replacement and mainline cable
2 system refurbishment and replacement projects;

3 (ii) training facility construction or upgrade
4 projects totaling an estimated \$1,000,000; any
5 such new facility must be designed for the purpose
6 of obtaining, and the owner of the facility shall
7 apply for, certification under the United States
8 Green Building Council's Leadership in Energy
9 Efficiency Design Green Building Rating System;
10 and

11 (iii) wood pole inspection, treatment, and
12 replacement programs; and

13 (B) over a 10-year period, invest an estimated
14 \$360,000,000 to upgrade and modernize its transmission
15 and distribution infrastructure and in Smart Grid
16 electric system upgrades, including, but not limited
17 to:

18 (i) additional smart meters;

19 (ii) distribution automation;

20 (iii) associated cyber secure data
21 communication network; and

22 (iv) substation micro-processor relay
23 upgrades.

24 For purposes of this Section, "Smart Grid electric system
25 upgrades" shall have the meaning set forth in subsection (a) of
26 Section 16-108.6 of this Act.

1 The investments in the infrastructure investment program
2 described in this subsection (b) shall be incremental to the
3 participating utility's annual capital investment program, as
4 defined by, for purposes of this subsection (b), the
5 participating utility's average capital spend for calendar
6 years 2008, 2009, and 2010 as reported in the applicable
7 Federal Energy Regulatory Commission (FERC) Form 1; provided
8 that where one or more utilities have merged, the average
9 capital spend shall be determined using the aggregate of the
10 merged utilities' capital spend reported in FERC Form 1 for the
11 years 2008, 2009, and 2010. A participating utility may add
12 reasonable construction ramp-up and ramp-down time to the
13 investment periods specified in this subsection (b). For each
14 such investment period, the ramp-up and ramp-down time shall
15 not exceed a total of 6 months.

16 Within 60 days after filing a tariff under subsection (c)
17 of this Section, a participating utility shall submit to the
18 Commission its plan, including scope, schedule, and staffing,
19 for satisfying its infrastructure investment program
20 commitments pursuant to this subsection (b). The submitted plan
21 shall include a schedule and staffing plan for the next
22 calendar year. The plan shall also include a plan for the
23 creation, operation, and administration of a Smart Grid test
24 bed as described in subsection (c) of Section 16-108.8. The
25 plan need not allocate the work equally over the respective
26 periods, but should allocate material increments throughout

1 such periods commensurate with the work to be undertaken. No
2 later than April 1 of each subsequent year, the utility shall
3 submit to the Commission a report that includes any updates to
4 the plan, a schedule for the next calendar year, the
5 expenditures made for the prior calendar year and cumulatively,
6 and the number of full-time equivalent jobs created for the
7 prior calendar year and cumulatively. If the utility is
8 materially deficient in satisfying a schedule or staffing plan,
9 then the report must also include a corrective action plan to
10 address the deficiency. The fact that the plan, implementation
11 of the plan, or a schedule changes shall not imply the
12 imprudence or unreasonableness of the infrastructure
13 investment program, plan, or schedule. Further, no later than
14 45 days following the last day of the first, second, and third
15 quarters of each year of the plan, a participating utility
16 shall submit to the Commission a verified quarterly report for
17 the prior quarter that includes (i) the total number of
18 full-time equivalent jobs created during the prior quarter,
19 (ii) the total number of employees as of the last day of the
20 prior quarter, (iii) the total number of full-time equivalent
21 hours in each job classification or job title, (iv) the total
22 number of incremental employees and contractors in support of
23 the investments undertaken pursuant to this subsection (b) for
24 the prior quarter, and (v) any other information that the
25 Commission may require by rule.

26 With respect to the participating utility's peak job

1 commitment, if, after considering the utility's corrective
2 action plan and compliance thereunder, the Commission enters an
3 order finding, after notice and hearing, that a participating
4 utility did not satisfy its peak job commitment described in
5 this subsection (b) for reasons that are reasonably within its
6 control, then the Commission shall also determine, after
7 consideration of the evidence, including, but not limited to,
8 evidence submitted by the Department of Commerce and Economic
9 Opportunity and the utility, the deficiency in the number of
10 full-time equivalent jobs during the peak program year due to
11 such failure. The Commission shall notify the Department of any
12 proceeding that is initiated pursuant to this paragraph. For
13 each full-time equivalent job deficiency during the peak
14 program year that the Commission finds as set forth in this
15 paragraph, the participating utility shall, within 30 days
16 after the entry of the Commission's order, pay \$6,000 to a fund
17 for training grants administered under Section 605-800 of the
18 Department of Commerce and Economic Opportunity Law, which
19 shall not be a recoverable expense.

20 With respect to the participating utility's investment
21 amount commitments, if, after considering the utility's
22 corrective action plan and compliance thereunder, the
23 Commission enters an order finding, after notice and hearing,
24 that a participating utility is not satisfying its investment
25 amount commitments described in this subsection (b), then the
26 utility shall no longer be eligible to annually update the

1 performance-based formula rate tariff pursuant to subsection
2 (d) of this Section. In such event, the then current rates
3 shall remain in effect until such time as new rates are set
4 pursuant to Article IX of this Act, subject to retroactive
5 adjustment, with interest, to reconcile rates charged with
6 actual costs.

7 If the Commission finds that a participating utility is no
8 longer eligible to update the performance-based formula rate
9 tariff pursuant to subsection (d) of this Section, or the
10 performance-based formula rate is otherwise terminated, then
11 the participating utility's voluntary commitments and
12 obligations under this subsection (b) shall immediately
13 terminate, except for the utility's obligation to pay an amount
14 already owed to the fund for training grants pursuant to a
15 Commission order.

16 In meeting the obligations of this subsection (b), to the
17 extent feasible and consistent with State and federal law, the
18 investments under the infrastructure investment program should
19 provide employment opportunities for all segments of the
20 population and workforce, including minority-owned and
21 female-owned business enterprises, and shall not, consistent
22 with State and federal law, discriminate based on race or
23 socioeconomic status.

24 (b-5) Nothing in this Section shall prohibit the Commission
25 from investigating the prudence and reasonableness of the
26 expenditures made under the infrastructure investment program

1 during the annual review required by subsection (d) of this
2 Section and shall, as part of such investigation, determine
3 whether the utility's actual costs under the program are
4 prudent and reasonable. The fact that a participating utility
5 invests more than the minimum amounts specified in subsection
6 (b) of this Section or its plan shall not imply imprudence or
7 unreasonableness.

8 If the participating utility finds that it is implementing
9 its plan for satisfying the infrastructure investment program
10 commitments described in subsection (b) of this Section at a
11 cost below the estimated amounts specified in subsection (b) of
12 this Section, then the utility may file a petition with the
13 Commission requesting that it be permitted to satisfy its
14 commitments by spending less than the estimated amounts
15 specified in subsection (b) of this Section. The Commission
16 shall, after notice and hearing, enter its order approving, or
17 approving as modified, or denying each such petition within 150
18 days after the filing of the petition.

19 In no event, absent General Assembly approval, shall the
20 capital investment costs incurred by a participating utility
21 other than a combination utility in satisfying its
22 infrastructure investment program commitments described in
23 subsection (b) of this Section exceed \$3,000,000,000 or, for a
24 participating utility that is a combination utility,
25 \$720,000,000. If the participating utility's updated cost
26 estimates for satisfying its infrastructure investment program

1 commitments described in subsection (b) of this Section exceed
2 the limitation imposed by this subsection (b-5), then it shall
3 submit a report to the Commission that identifies the increased
4 costs and explains the reason or reasons for the increased
5 costs no later than the year in which the utility estimates it
6 will exceed the limitation. The Commission shall review the
7 report and shall, within 90 days after the participating
8 utility files the report, report to the General Assembly its
9 findings regarding the participating utility's report. If the
10 General Assembly does not amend the limitation imposed by this
11 subsection (b-5), then the utility may modify its plan so as
12 not to exceed the limitation imposed by this subsection (b-5)
13 and may propose corresponding changes to the metrics
14 established pursuant to subparagraphs (5) through (8) of
15 subsection (f) of this Section, and the Commission may modify
16 the metrics and incremental savings goals established pursuant
17 to subsection (f) of this Section accordingly.

18 (b-10) All participating utilities shall make
19 contributions for an energy low-income and support program in
20 accordance with this subsection. Beginning no later than 180
21 days after a participating utility files a performance-based
22 formula rate tariff pursuant to subsection (c) of this Section,
23 or beginning no later than January 1, 2012 if such utility
24 files such performance-based formula rate tariff within 14 days
25 of December 30, 2011 (the effective date of Public Act 97-646),
26 and without obtaining any approvals from the Commission or any

1 other agency other than as set forth in this Section,
2 regardless of whether any such approval would otherwise be
3 required, a participating utility other than a combination
4 utility shall pay \$10,000,000 per year for 5 years and a
5 participating utility that is a combination utility shall pay
6 \$1,000,000 per year for 10 years to the energy low-income and
7 support program, which is intended to fund customer assistance
8 programs with the primary purpose being avoidance of imminent
9 disconnection. Such programs may include:

10 (1) a residential hardship program that may partner
11 with community-based organizations, including senior
12 citizen organizations, and provides grants to low-income
13 residential customers, including low-income senior
14 citizens, who demonstrate a hardship;

15 (2) a program that provides grants and other bill
16 payment concessions to veterans with disabilities who
17 demonstrate a hardship and members of the armed services or
18 reserve forces of the United States or members of the
19 Illinois National Guard who are on active duty pursuant to
20 an executive order of the President of the United States,
21 an act of the Congress of the United States, or an order of
22 the Governor and who demonstrate a hardship;

23 (3) a budget assistance program that provides tools and
24 education to low-income senior citizens to assist them with
25 obtaining information regarding energy usage and effective
26 means of managing energy costs;

1 (4) a non-residential special hardship program that
2 provides grants to non-residential customers such as small
3 businesses and non-profit organizations that demonstrate a
4 hardship, including those providing services to senior
5 citizen and low-income customers; and

6 (5) a performance-based assistance program that
7 provides grants to encourage residential customers to make
8 on-time payments by matching a portion of the customer's
9 payments or providing credits towards arrearages.

10 The payments made by a participating utility pursuant to
11 this subsection (b-10) shall not be a recoverable expense. A
12 participating utility may elect to fund either new or existing
13 customer assistance programs, including, but not limited to,
14 those that are administered by the utility.

15 Programs that use funds that are provided by a
16 participating utility to reduce utility bills may be
17 implemented through tariffs that are filed with and reviewed by
18 the Commission. If a utility elects to file tariffs with the
19 Commission to implement all or a portion of the programs, those
20 tariffs shall, regardless of the date actually filed, be deemed
21 accepted and approved, and shall become effective on December
22 30, 2011 (the effective date of Public Act 97-646). The
23 participating utilities whose customers benefit from the funds
24 that are disbursed as contemplated in this Section shall file
25 annual reports documenting the disbursement of those funds with
26 the Commission. The Commission has the authority to audit

1 disbursement of the funds to ensure they were disbursed
2 consistently with this Section.

3 If the Commission finds that a participating utility is no
4 longer eligible to update the performance-based formula rate
5 tariff pursuant to subsection (d) of this Section, or the
6 performance-based formula rate is otherwise terminated, then
7 the participating utility's voluntary commitments and
8 obligations under this subsection (b-10) shall immediately
9 terminate.

10 (c) A participating utility may elect to recover its
11 delivery services costs through a performance-based formula
12 rate approved by the Commission, which shall specify the cost
13 components that form the basis of the rate charged to customers
14 with sufficient specificity to operate in a standardized manner
15 and be updated annually with transparent information that
16 reflects the utility's actual costs to be recovered during the
17 applicable rate year, which is the period beginning with the
18 first billing day of January and extending through the last
19 billing day of the following December. In the event the utility
20 recovers a portion of its costs through automatic adjustment
21 clause tariffs on October 26, 2011 (the effective date of
22 Public Act 97-616), the utility may elect to continue to
23 recover these costs through such tariffs, but then these costs
24 shall not be recovered through the performance-based formula
25 rate. In the event the participating utility, prior to December
26 30, 2011 (the effective date of Public Act 97-646), filed

1 electric delivery services tariffs with the Commission
2 pursuant to Section 9-201 of this Act that are related to the
3 recovery of its electric delivery services costs that are still
4 pending on December 30, 2011 (the effective date of Public Act
5 97-646), the participating utility shall, at the time it files
6 its performance-based formula rate tariff with the Commission,
7 also file a notice of withdrawal with the Commission to
8 withdraw the electric delivery services tariffs previously
9 filed pursuant to Section 9-201 of this Act. Upon receipt of
10 such notice, the Commission shall dismiss with prejudice any
11 docket that had been initiated to investigate the electric
12 delivery services tariffs filed pursuant to Section 9-201 of
13 this Act, and such tariffs and the record related thereto shall
14 not be the subject of any further hearing, investigation, or
15 proceeding of any kind related to rates for electric delivery
16 services.

17 The performance-based formula rate shall be implemented
18 through a tariff filed with the Commission consistent with the
19 provisions of this subsection (c) that shall be applicable to
20 all delivery services customers. The Commission shall initiate
21 and conduct an investigation of the tariff in a manner
22 consistent with the provisions of this subsection (c) and the
23 provisions of Article IX of this Act to the extent they do not
24 conflict with this subsection (c). Except in the case where the
25 Commission finds, after notice and hearing, that a
26 participating utility is not satisfying its investment amount

1 commitments under subsection (b) of this Section, the
2 performance-based formula rate shall remain in effect at the
3 discretion of the utility. The performance-based formula rate
4 approved by the Commission shall do the following:

5 (1) Provide for the recovery of the utility's actual
6 costs of delivery services that are prudently incurred and
7 reasonable in amount consistent with Commission practice
8 and law. The sole fact that a cost differs from that
9 incurred in a prior calendar year or that an investment is
10 different from that made in a prior calendar year shall not
11 imply the imprudence or unreasonableness of that cost or
12 investment.

13 (2) Reflect the utility's actual year-end capital
14 structure for the applicable calendar year, excluding
15 goodwill, subject to a determination of prudence and
16 reasonableness consistent with Commission practice and
17 law. To enable the financing of the incremental capital
18 expenditures, including regulatory assets, for electric
19 utilities that serve less than 3,000,000 retail customers
20 but more than 500,000 retail customers in the State, a
21 participating electric utility's actual year-end capital
22 structure that includes a common equity ratio, excluding
23 goodwill, of up to and including 50% of the total capital
24 structure shall be deemed reasonable and used to set rates.

25 (3) Include a cost of equity, which shall be calculated
26 as the sum of the following:

1 (A) the average for the applicable calendar year of
2 the monthly average yields of 30-year U.S. Treasury
3 bonds published by the Board of Governors of the
4 Federal Reserve System in its weekly H.15 Statistical
5 Release or successor publication; and

6 (B) 580 basis points.

7 At such time as the Board of Governors of the Federal
8 Reserve System ceases to include the monthly average yields
9 of 30-year U.S. Treasury bonds in its weekly H.15
10 Statistical Release or successor publication, the monthly
11 average yields of the U.S. Treasury bonds then having the
12 longest duration published by the Board of Governors in its
13 weekly H.15 Statistical Release or successor publication
14 shall instead be used for purposes of this paragraph (3).

15 (4) Permit and set forth protocols, subject to a
16 determination of prudence and reasonableness consistent
17 with Commission practice and law, for the following:

18 (A) recovery of incentive compensation expense
19 that is based on the achievement of operational
20 metrics, including metrics related to budget controls,
21 outage duration and frequency, safety, customer
22 service, efficiency and productivity, and
23 environmental compliance. Incentive compensation
24 expense that is based on net income or an affiliate's
25 earnings per share shall not be recoverable under the
26 performance-based formula rate;

1 (B) recovery of pension and other post-employment
2 benefits expense, provided that such costs are
3 supported by an actuarial study;

4 (C) recovery of severance costs, provided that if
5 the amount is over \$3,700,000 for a participating
6 utility that is a combination utility or \$10,000,000
7 for a participating utility that serves more than 3
8 million retail customers, then the full amount shall be
9 amortized consistent with subparagraph (F) of this
10 paragraph (4);

11 (D) investment return at a rate equal to the
12 utility's weighted average cost of long-term debt, on
13 the pension assets as, and in the amount, reported in
14 Account 186 (or in such other Account or Accounts as
15 such asset may subsequently be recorded) of the
16 utility's most recently filed FERC Form 1, net of
17 deferred tax benefits;

18 (E) recovery of the expenses related to the
19 Commission proceeding under this subsection (c) to
20 approve this performance-based formula rate and
21 initial rates or to subsequent proceedings related to
22 the formula, provided that the recovery shall be
23 amortized over a 3-year period; recovery of expenses
24 related to the annual Commission proceedings under
25 subsection (d) of this Section to review the inputs to
26 the performance-based formula rate shall be expensed

1 and recovered through the performance-based formula
2 rate;

3 (F) amortization over a 5-year period of the full
4 amount of each charge or credit that exceeds \$3,700,000
5 for a participating utility that is a combination
6 utility or \$10,000,000 for a participating utility
7 that serves more than 3 million retail customers in the
8 applicable calendar year and that relates to a
9 workforce reduction program's severance costs, changes
10 in accounting rules, changes in law, compliance with
11 any Commission-initiated audit, or a single storm or
12 other similar expense, provided that any unamortized
13 balance shall be reflected in rate base. For purposes
14 of this subparagraph (F), changes in law includes any
15 enactment, repeal, or amendment in a law, ordinance,
16 rule, regulation, interpretation, permit, license,
17 consent, or order, including those relating to taxes,
18 accounting, or to environmental matters, or in the
19 interpretation or application thereof by any
20 governmental authority occurring after October 26,
21 2011 (the effective date of Public Act 97-616);

22 (G) recovery of existing regulatory assets over
23 the periods previously authorized by the Commission;

24 (H) historical weather normalized billing
25 determinants; and

26 (I) allocation methods for common costs.

1 (5) Provide that if the participating utility's earned
2 rate of return on common equity related to the provision of
3 delivery services for the prior rate year (calculated using
4 costs and capital structure approved by the Commission as
5 provided in subparagraph (2) of this subsection (c),
6 consistent with this Section, in accordance with
7 Commission rules and orders, including, but not limited to,
8 adjustments for goodwill, and after any Commission-ordered
9 disallowances and taxes) is more than 50 basis points
10 higher than the rate of return on common equity calculated
11 pursuant to paragraph (3) of this subsection (c) (after
12 adjusting for any penalties to the rate of return on common
13 equity applied pursuant to the performance metrics
14 provision of subsection (f) of this Section), then the
15 participating utility shall apply a credit through the
16 performance-based formula rate that reflects an amount
17 equal to the value of that portion of the earned rate of
18 return on common equity that is more than 50 basis points
19 higher than the rate of return on common equity calculated
20 pursuant to paragraph (3) of this subsection (c) (after
21 adjusting for any penalties to the rate of return on common
22 equity applied pursuant to the performance metrics
23 provision of subsection (f) of this Section) for the prior
24 rate year, adjusted for taxes. If the participating
25 utility's earned rate of return on common equity related to
26 the provision of delivery services for the prior rate year

1 (calculated using costs and capital structure approved by
2 the Commission as provided in subparagraph (2) of this
3 subsection (c), consistent with this Section, in
4 accordance with Commission rules and orders, including,
5 but not limited to, adjustments for goodwill, and after any
6 Commission-ordered disallowances and taxes) is more than
7 50 basis points less than the return on common equity
8 calculated pursuant to paragraph (3) of this subsection (c)
9 (after adjusting for any penalties to the rate of return on
10 common equity applied pursuant to the performance metrics
11 provision of subsection (f) of this Section), then the
12 participating utility shall apply a charge through the
13 performance-based formula rate that reflects an amount
14 equal to the value of that portion of the earned rate of
15 return on common equity that is more than 50 basis points
16 less than the rate of return on common equity calculated
17 pursuant to paragraph (3) of this subsection (c) (after
18 adjusting for any penalties to the rate of return on common
19 equity applied pursuant to the performance metrics
20 provision of subsection (f) of this Section) for the prior
21 rate year, adjusted for taxes.

22 (6) Provide for an annual reconciliation, as described
23 in subsection (d) of this Section, with interest, of the
24 revenue requirement reflected in rates for each calendar
25 year, beginning with the calendar year in which the utility
26 files its performance-based formula rate tariff pursuant

1 to subsection (c) of this Section, with what the revenue
2 requirement would have been had the actual cost information
3 for the applicable calendar year been available at the
4 filing date.

5 The utility shall file, together with its tariff, final
6 data based on its most recently filed FERC Form 1, plus
7 projected plant additions and correspondingly updated
8 depreciation reserve and expense for the calendar year in which
9 the tariff and data are filed, that shall populate the
10 performance-based formula rate and set the initial delivery
11 services rates under the formula. For purposes of this Section,
12 "FERC Form 1" means the Annual Report of Major Electric
13 Utilities, Licensees and Others that electric utilities are
14 required to file with the Federal Energy Regulatory Commission
15 under the Federal Power Act, Sections 3, 4(a), 304 and 209,
16 modified as necessary to be consistent with 83 Ill. Admin. Code
17 Part 415 as of May 1, 2011. Nothing in this Section is intended
18 to allow costs that are not otherwise recoverable to be
19 recoverable by virtue of inclusion in FERC Form 1.

20 After the utility files its proposed performance-based
21 formula rate structure and protocols and initial rates, the
22 Commission shall initiate a docket to review the filing. The
23 Commission shall enter an order approving, or approving as
24 modified, the performance-based formula rate, including the
25 initial rates, as just and reasonable within 270 days after the
26 date on which the tariff was filed, or, if the tariff is filed

1 within 14 days after October 26, 2011 (the effective date of
2 Public Act 97-616), then by May 31, 2012. Such review shall be
3 based on the same evidentiary standards, including, but not
4 limited to, those concerning the prudence and reasonableness of
5 the costs incurred by the utility, the Commission applies in a
6 hearing to review a filing for a general increase in rates
7 under Article IX of this Act. The initial rates shall take
8 effect within 30 days after the Commission's order approving
9 the performance-based formula rate tariff.

10 Until such time as the Commission approves a different rate
11 design and cost allocation pursuant to subsection (e) of this
12 Section, rate design and cost allocation across customer
13 classes shall be consistent with the Commission's most recent
14 order regarding the participating utility's request for a
15 general increase in its delivery services rates.

16 Subsequent changes to the performance-based formula rate
17 structure or protocols shall be made as set forth in Section
18 9-201 of this Act, but nothing in this subsection (c) is
19 intended to limit the Commission's authority under Article IX
20 and other provisions of this Act to initiate an investigation
21 of a participating utility's performance-based formula rate
22 tariff, provided that any such changes shall be consistent with
23 paragraphs (1) through (6) of this subsection (c). Any change
24 ordered by the Commission shall be made at the same time new
25 rates take effect following the Commission's next order
26 pursuant to subsection (d) of this Section, provided that the

1 new rates take effect no less than 30 days after the date on
2 which the Commission issues an order adopting the change.

3 A participating utility that files a tariff pursuant to
4 this subsection (c) must submit a one-time \$200,000 filing fee
5 at the time the Chief Clerk of the Commission accepts the
6 filing, which shall be a recoverable expense.

7 In the event the performance-based formula rate is
8 terminated, the then current rates shall remain in effect until
9 such time as new rates are set pursuant to Article IX of this
10 Act, subject to retroactive rate adjustment, with interest, to
11 reconcile rates charged with actual costs. At such time that
12 the performance-based formula rate is terminated, the
13 participating utility's voluntary commitments and obligations
14 under subsection (b) of this Section shall immediately
15 terminate, except for the utility's obligation to pay an amount
16 already owed to the fund for training grants pursuant to a
17 Commission order issued under subsection (b) of this Section.

18 (d) Subsequent to the Commission's issuance of an order
19 approving the utility's performance-based formula rate
20 structure and protocols, and initial rates under subsection (c)
21 of this Section, the utility shall file, on or before May 1 of
22 each year, with the Chief Clerk of the Commission its updated
23 cost inputs to the performance-based formula rate for the
24 applicable rate year and the corresponding new charges. Each
25 such filing shall conform to the following requirements and
26 include the following information:

1 (1) The inputs to the performance-based formula rate
2 for the applicable rate year shall be based on final
3 historical data reflected in the utility's most recently
4 filed annual FERC Form 1 plus projected plant additions and
5 correspondingly updated depreciation reserve and expense
6 for the calendar year in which the inputs are filed. The
7 filing shall also include a reconciliation of the revenue
8 requirement that was in effect for the prior rate year (as
9 set by the cost inputs for the prior rate year) with the
10 actual revenue requirement for the prior rate year
11 (determined using a year-end rate base) that uses amounts
12 reflected in the applicable FERC Form 1 that reports the
13 actual costs for the prior rate year. Any over-collection
14 or under-collection indicated by such reconciliation shall
15 be reflected as a credit against, or recovered as an
16 additional charge to, respectively, with interest
17 calculated at a rate equal to the utility's weighted
18 average cost of capital approved by the Commission for the
19 prior rate year, the charges for the applicable rate year.
20 Provided, however, that the first such reconciliation
21 shall be for the calendar year in which the utility files
22 its performance-based formula rate tariff pursuant to
23 subsection (c) of this Section and shall reconcile (i) the
24 revenue requirement or requirements established by the
25 rate order or orders in effect from time to time during
26 such calendar year (weighted, as applicable) with (ii) the

1 revenue requirement determined using a year-end rate base
2 for that calendar year calculated pursuant to the
3 performance-based formula rate using (A) actual costs for
4 that year as reflected in the applicable FERC Form 1, and
5 (B) for the first such reconciliation only, the cost of
6 equity, which shall be calculated as the sum of 590 basis
7 points plus the average for the applicable calendar year of
8 the monthly average yields of 30-year U.S. Treasury bonds
9 published by the Board of Governors of the Federal Reserve
10 System in its weekly H.15 Statistical Release or successor
11 publication. The first such reconciliation is not intended
12 to provide for the recovery of costs previously excluded
13 from rates based on a prior Commission order finding of
14 imprudence or unreasonableness. Each reconciliation shall
15 be certified by the participating utility in the same
16 manner that FERC Form 1 is certified. The filing shall also
17 include the charge or credit, if any, resulting from the
18 calculation required by paragraph (6) of subsection (c) of
19 this Section.

20 Notwithstanding anything that may be to the contrary,
21 the intent of the reconciliation is to ultimately reconcile
22 the revenue requirement reflected in rates for each
23 calendar year, beginning with the calendar year in which
24 the utility files its performance-based formula rate
25 tariff pursuant to subsection (c) of this Section, with
26 what the revenue requirement determined using a year-end

1 rate base for the applicable calendar year would have been
2 had the actual cost information for the applicable calendar
3 year been available at the filing date.

4 (2) The new charges shall take effect beginning on the
5 first billing day of the following January billing period
6 and remain in effect through the last billing day of the
7 next December billing period regardless of whether the
8 Commission enters upon a hearing pursuant to this
9 subsection (d).

10 (3) The filing shall include relevant and necessary
11 data and documentation for the applicable rate year that is
12 consistent with the Commission's rules applicable to a
13 filing for a general increase in rates or any rules adopted
14 by the Commission to implement this Section. Normalization
15 adjustments shall not be required. Notwithstanding any
16 other provision of this Section or Act or any rule or other
17 requirement adopted by the Commission, a participating
18 utility that is a combination utility with more than one
19 rate zone shall not be required to file a separate set of
20 such data and documentation for each rate zone and may
21 combine such data and documentation into a single set of
22 schedules.

23 Within 45 days after the utility files its annual update of
24 cost inputs to the performance-based formula rate, the
25 Commission shall have the authority, either upon complaint or
26 its own initiative, but with reasonable notice, to enter upon a

1 hearing concerning the prudence and reasonableness of the costs
2 incurred by the utility to be recovered during the applicable
3 rate year that are reflected in the inputs to the
4 performance-based formula rate derived from the utility's FERC
5 Form 1. During the course of the hearing, each objection shall
6 be stated with particularity and evidence provided in support
7 thereof, after which the utility shall have the opportunity to
8 rebut the evidence. Discovery shall be allowed consistent with
9 the Commission's Rules of Practice, which Rules shall be
10 enforced by the Commission or the assigned administrative law
11 judge ~~hearing examiner~~. The Commission shall apply the same
12 evidentiary standards, including, but not limited to, those
13 concerning the prudence and reasonableness of the costs
14 incurred by the utility, in the hearing as it would apply in a
15 hearing to review a filing for a general increase in rates
16 under Article IX of this Act. The Commission shall not,
17 however, have the authority in a proceeding under this
18 subsection (d) to consider or order any changes to the
19 structure or protocols of the performance-based formula rate
20 approved pursuant to subsection (c) of this Section. In a
21 proceeding under this subsection (d), the Commission shall
22 enter its order no later than the earlier of 240 days after the
23 utility's filing of its annual update of cost inputs to the
24 performance-based formula rate or December 31. The
25 Commission's determinations of the prudence and reasonableness
26 of the costs incurred for the applicable calendar year shall be

1 final upon entry of the Commission's order and shall not be
2 subject to reopening, reexamination, or collateral attack in
3 any other Commission proceeding, case, docket, order, rule or
4 regulation, provided, however, that nothing in this subsection
5 (d) shall prohibit a party from petitioning the Commission to
6 rehear or appeal to the courts the order pursuant to the
7 provisions of this Act.

8 In the event the Commission does not, either upon complaint
9 or its own initiative, enter upon a hearing within 45 days
10 after the utility files the annual update of cost inputs to its
11 performance-based formula rate, then the costs incurred for the
12 applicable calendar year shall be deemed prudent and
13 reasonable, and the filed charges shall not be subject to
14 reopening, reexamination, or collateral attack in any other
15 proceeding, case, docket, order, rule, or regulation.

16 A participating utility's first filing of the updated cost
17 inputs, and any Commission investigation of such inputs
18 pursuant to this subsection (d) shall proceed notwithstanding
19 the fact that the Commission's investigation under subsection
20 (c) of this Section is still pending and notwithstanding any
21 other law, order, rule, or Commission practice to the contrary.

22 (e) Nothing in subsections (c) or (d) of this Section shall
23 prohibit the Commission from investigating, or a participating
24 utility from filing, revenue-neutral tariff changes related to
25 rate design of a performance-based formula rate that has been
26 placed into effect for the utility. Following approval of a

1 participating utility's performance-based formula rate tariff
2 pursuant to subsection (c) of this Section, the utility shall
3 make a filing with the Commission within one year after the
4 effective date of the performance-based formula rate tariff
5 that proposes changes to the tariff to incorporate the findings
6 of any final rate design orders of the Commission applicable to
7 the participating utility and entered subsequent to the
8 Commission's approval of the tariff. The Commission shall,
9 after notice and hearing, enter its order approving, or
10 approving with modification, the proposed changes to the
11 performance-based formula rate tariff within 240 days after the
12 utility's filing. Following such approval, the utility shall
13 make a filing with the Commission during each subsequent 3-year
14 period that either proposes revenue-neutral tariff changes or
15 re-files the existing tariffs without change, which shall
16 present the Commission with an opportunity to suspend the
17 tariffs and consider revenue-neutral tariff changes related to
18 rate design.

19 (f) Within 30 days after the filing of a tariff pursuant to
20 subsection (c) of this Section, each participating utility
21 shall develop and file with the Commission multi-year metrics
22 designed to achieve, ratably (i.e., in equal segments) over a
23 10-year period, improvement over baseline performance values
24 as follows:

- 25 (1) Twenty percent improvement in the System Average
26 Interruption Frequency Index, using a baseline of the

1 average of the data from 2001 through 2010.

2 (2) Fifteen percent improvement in the system Customer
3 Average Interruption Duration Index, using a baseline of
4 the average of the data from 2001 through 2010.

5 (3) For a participating utility other than a
6 combination utility, 20% improvement in the System Average
7 Interruption Frequency Index for its Southern Region,
8 using a baseline of the average of the data from 2001
9 through 2010. For purposes of this paragraph (3), Southern
10 Region shall have the meaning set forth in the
11 participating utility's most recent report filed pursuant
12 to Section 16-125 of this Act.

13 (3.5) For a participating utility other than a
14 combination utility, 20% improvement in the System Average
15 Interruption Frequency Index for its Northeastern Region,
16 using a baseline of the average of the data from 2001
17 through 2010. For purposes of this paragraph (3.5),
18 Northeastern Region shall have the meaning set forth in the
19 participating utility's most recent report filed pursuant
20 to Section 16-125 of this Act.

21 (4) Seventy-five percent improvement in the total
22 number of customers who exceed the service reliability
23 targets as set forth in subparagraphs (A) through (C) of
24 paragraph (4) of subsection (b) of 83 Ill. Admin. Code Part
25 411.140 as of May 1, 2011, using 2010 as the baseline year.

26 (5) Reduction in issuance of estimated electric bills:

1 90% improvement for a participating utility other than a
2 combination utility, and 56% improvement for a
3 participating utility that is a combination utility, using
4 a baseline of the average number of estimated bills for the
5 years 2008 through 2010.

6 (6) Consumption on inactive meters: 90% improvement
7 for a participating utility other than a combination
8 utility, and 56% improvement for a participating utility
9 that is a combination utility, using a baseline of the
10 average unbilled kilowatthours for the years 2009 and 2010.

11 (7) Unaccounted for energy: 50% improvement for a
12 participating utility other than a combination utility
13 using a baseline of the non-technical line loss unaccounted
14 for energy kilowatthours for the year 2009.

15 (8) Uncollectible expense: reduce uncollectible
16 expense by at least \$30,000,000 for a participating utility
17 other than a combination utility and by at least \$3,500,000
18 for a participating utility that is a combination utility,
19 using a baseline of the average uncollectible expense for
20 the years 2008 through 2010.

21 (9) Opportunities for minority-owned and female-owned
22 business enterprises: design a performance metric
23 regarding the creation of opportunities for minority-owned
24 and female-owned business enterprises consistent with
25 State and federal law using a base performance value of the
26 percentage of the participating utility's capital

1 expenditures that were paid to minority-owned and
2 female-owned business enterprises in 2010.

3 The definitions set forth in 83 Ill. Admin. Code Part
4 411.20 as of May 1, 2011 shall be used for purposes of
5 calculating performance under paragraphs (1) through (3.5) of
6 this subsection (f), provided, however, that the participating
7 utility may exclude up to 9 extreme weather event days from
8 such calculation for each year, and provided further that the
9 participating utility shall exclude 9 extreme weather event
10 days when calculating each year of the baseline period to the
11 extent that there are 9 such days in a given year of the
12 baseline period. For purposes of this Section, an extreme
13 weather event day is a 24-hour calendar day (beginning at 12:00
14 a.m. and ending at 11:59 p.m.) during which any weather event
15 (e.g., storm, tornado) caused interruptions for 10,000 or more
16 of the participating utility's customers for 3 hours or more.
17 If there are more than 9 extreme weather event days in a year,
18 then the utility may choose no more than 9 extreme weather
19 event days to exclude, provided that the same extreme weather
20 event days are excluded from each of the calculations performed
21 under paragraphs (1) through (3.5) of this subsection (f).

22 The metrics shall include incremental performance goals
23 for each year of the 10-year period, which shall be designed to
24 demonstrate that the utility is on track to achieve the
25 performance goal in each category at the end of the 10-year
26 period. The utility shall elect when the 10-year period shall

1 commence for the metrics set forth in subparagraphs (1) through
2 (4) and (9) of this subsection (f), provided that it begins no
3 later than 14 months following the date on which the utility
4 begins investing pursuant to subsection (b) of this Section,
5 and when the 10-year period shall commence for the metrics set
6 forth in subparagraphs (5) through (8) of this subsection (f),
7 provided that it begins no later than 14 months following the
8 date on which the Commission enters its order approving the
9 utility's Advanced Metering Infrastructure Deployment Plan
10 pursuant to subsection (c) of Section 16-108.6 of this Act.

11 The metrics and performance goals set forth in
12 subparagraphs (5) through (8) of this subsection (f) are based
13 on the assumptions that the participating utility may fully
14 implement the technology described in subsection (b) of this
15 Section, including utilizing the full functionality of such
16 technology and that there is no requirement for personal
17 on-site notification. If the utility is unable to meet the
18 metrics and performance goals set forth in subparagraphs (5)
19 through (8) of this subsection (f) for such reasons, and the
20 Commission so finds after notice and hearing, then the utility
21 shall be excused from compliance, but only to the limited
22 extent achievement of the affected metrics and performance
23 goals was hindered by the less than full implementation.

24 (f-5) The financial penalties applicable to the metrics
25 described in subparagraphs (1) through (8) of subsection (f) of
26 this Section, as applicable, shall be applied through an

1 adjustment to the participating utility's return on equity of
2 no more than a total of 30 basis points in each of the first 3
3 years, of no more than a total of 34 basis points in each of the
4 3 years thereafter, and of no more than a total of 38 basis
5 points in each of the 4 years thereafter, as follows:

6 (1) With respect to each of the incremental annual
7 performance goals established pursuant to paragraph (1) of
8 subsection (f) of this Section,

9 (A) for each year that a participating utility
10 other than a combination utility does not achieve the
11 annual goal, the participating utility's return on
12 equity shall be reduced as follows: during years 1
13 through 3, by 5 basis points; during years 4 through 6,
14 by 6 basis points; and during years 7 through 10, by 7
15 basis points; and

16 (B) for each year that a participating utility that
17 is a combination utility does not achieve the annual
18 goal, the participating utility's return on equity
19 shall be reduced as follows: during years 1 through 3,
20 by 10 basis points; during years 4 through 6, by 12
21 basis points; and during years 7 through 10, by 14
22 basis points.

23 (2) With respect to each of the incremental annual
24 performance goals established pursuant to paragraph (2) of
25 subsection (f) of this Section, for each year that the
26 participating utility does not achieve each such goal, the

1 participating utility's return on equity shall be reduced
2 as follows: during years 1 through 3, by 5 basis points;
3 during years 4 through 6, by 6 basis points; and during
4 years 7 through 10, by 7 basis points.

5 (3) With respect to each of the incremental annual
6 performance goals established pursuant to paragraphs (3)
7 and (3.5) of subsection (f) of this Section, for each year
8 that a participating utility other than a combination
9 utility does not achieve both such goals, the participating
10 utility's return on equity shall be reduced as follows:
11 during years 1 through 3, by 5 basis points; during years 4
12 through 6, by 6 basis points; and during years 7 through
13 10, by 7 basis points.

14 (4) With respect to each of the incremental annual
15 performance goals established pursuant to paragraph (4) of
16 subsection (f) of this Section, for each year that the
17 participating utility does not achieve each such goal, the
18 participating utility's return on equity shall be reduced
19 as follows: during years 1 through 3, by 5 basis points;
20 during years 4 through 6, by 6 basis points; and during
21 years 7 through 10, by 7 basis points.

22 (5) With respect to each of the incremental annual
23 performance goals established pursuant to subparagraph (5)
24 of subsection (f) of this Section, for each year that the
25 participating utility does not achieve at least 95% of each
26 such goal, the participating utility's return on equity

1 shall be reduced by 5 basis points for each such unachieved
2 goal.

3 (6) With respect to each of the incremental annual
4 performance goals established pursuant to paragraphs (6),
5 (7), and (8) of subsection (f) of this Section, as
6 applicable, which together measure non-operational
7 customer savings and benefits relating to the
8 implementation of the Advanced Metering Infrastructure
9 Deployment Plan, as defined in Section 16-108.6 of this
10 Act, the performance under each such goal shall be
11 calculated in terms of the percentage of the goal achieved.
12 The percentage of goal achieved for each of the goals shall
13 be aggregated, and an average percentage value calculated,
14 for each year of the 10-year period. If the utility does
15 not achieve an average percentage value in a given year of
16 at least 95%, the participating utility's return on equity
17 shall be reduced by 5 basis points.

18 The financial penalties shall be applied as described in
19 this subsection (f-5) for the 12-month period in which the
20 deficiency occurred through a separate tariff mechanism, which
21 shall be filed by the utility together with its metrics. In the
22 event the formula rate tariff established pursuant to
23 subsection (c) of this Section terminates, the utility's
24 obligations under subsection (f) of this Section and this
25 subsection (f-5) shall also terminate, provided, however, that
26 the tariff mechanism established pursuant to subsection (f) of

1 this Section and this subsection (f-5) shall remain in effect
2 until any penalties due and owing at the time of such
3 termination are applied.

4 The Commission shall, after notice and hearing, enter an
5 order within 120 days after the metrics are filed approving, or
6 approving with modification, a participating utility's tariff
7 or mechanism to satisfy the metrics set forth in subsection (f)
8 of this Section. On June 1 of each subsequent year, each
9 participating utility shall file a report with the Commission
10 that includes, among other things, a description of how the
11 participating utility performed under each metric and an
12 identification of any extraordinary events that adversely
13 impacted the utility's performance. Whenever a participating
14 utility does not satisfy the metrics required pursuant to
15 subsection (f) of this Section, the Commission shall, after
16 notice and hearing, enter an order approving financial
17 penalties in accordance with this subsection (f-5). The
18 Commission-approved financial penalties shall be applied
19 beginning with the next rate year. Nothing in this Section
20 shall authorize the Commission to reduce or otherwise obviate
21 the imposition of financial penalties for failing to achieve
22 one or more of the metrics established pursuant to subparagraph
23 (1) through (4) of subsection (f) of this Section.

24 (g) On or before July 31, 2014, each participating utility
25 shall file a report with the Commission that sets forth the
26 average annual increase in the average amount paid per

1 kilowatthour for residential eligible retail customers,
2 exclusive of the effects of energy efficiency programs,
3 comparing the 12-month period ending May 31, 2012; the 12-month
4 period ending May 31, 2013; and the 12-month period ending May
5 31, 2014. For a participating utility that is a combination
6 utility with more than one rate zone, the weighted average
7 aggregate increase shall be provided. The report shall be filed
8 together with a statement from an independent auditor attesting
9 to the accuracy of the report. The cost of the independent
10 auditor shall be borne by the participating utility and shall
11 not be a recoverable expense. "The average amount paid per
12 kilowatthour" shall be based on the participating utility's
13 tariffed rates actually in effect and shall not be calculated
14 using any hypothetical rate or adjustments to actual charges
15 (other than as specified for energy efficiency) as an input.

16 In the event that the average annual increase exceeds 2.5%
17 as calculated pursuant to this subsection (g), then Sections
18 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other
19 than this subsection, shall be inoperative as they relate to
20 the utility and its service area as of the date of the report
21 due to be submitted pursuant to this subsection and the utility
22 shall no longer be eligible to annually update the
23 performance-based formula rate tariff pursuant to subsection
24 (d) of this Section. In such event, the then current rates
25 shall remain in effect until such time as new rates are set
26 pursuant to Article IX of this Act, subject to retroactive

1 adjustment, with interest, to reconcile rates charged with
2 actual costs, and the participating utility's voluntary
3 commitments and obligations under subsection (b) of this
4 Section shall immediately terminate, except for the utility's
5 obligation to pay an amount already owed to the fund for
6 training grants pursuant to a Commission order issued under
7 subsection (b) of this Section.

8 In the event that the average annual increase is 2.5% or
9 less as calculated pursuant to this subsection (g), then the
10 performance-based formula rate shall remain in effect as set
11 forth in this Section.

12 For purposes of this Section, the amount per kilowatthour
13 means the total amount paid for electric service expressed on a
14 per kilowatthour basis, and the total amount paid for electric
15 service includes without limitation amounts paid for supply,
16 transmission, distribution, surcharges, and add-on taxes
17 exclusive of any increases in taxes or new taxes imposed after
18 October 26, 2011 (the effective date of Public Act 97-616). For
19 purposes of this Section, "eligible retail customers" shall
20 have the meaning set forth in Section 16-111.5 of this Act.

21 The fact that this Section becomes inoperative as set forth
22 in this subsection shall not be construed to mean that the
23 Commission may reexamine or otherwise reopen prudence or
24 reasonableness determinations already made.

25 (h) By December 31, 2017, the Commission shall prepare and
26 file with the General Assembly a report on the infrastructure

1 program and the performance-based formula rate. The report
2 shall include the change in the average amount per kilowatthour
3 paid by residential customers between June 1, 2011 and May 31,
4 2017. If the change in the total average rate paid exceeds 2.5%
5 compounded annually, the Commission shall include in the report
6 an analysis that shows the portion of the change due to the
7 delivery services component and the portion of the change due
8 to the supply component of the rate. The report shall include
9 separate sections for each participating utility.

10 Sections 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of
11 this Act, other than this subsection (h), are inoperative after
12 December 31, 2022 for every participating utility, after which
13 time a participating utility shall no longer be eligible to
14 annually update the performance-based formula rate tariff
15 pursuant to subsection (d) of this Section. At such time, the
16 then current rates shall remain in effect until such time as
17 new rates are set pursuant to Article IX of this Act, subject
18 to retroactive adjustment, with interest, to reconcile rates
19 charged with actual costs.

20 The fact that this Section becomes inoperative as set forth
21 in this subsection shall not be construed to mean that the
22 Commission may reexamine or otherwise reopen prudence or
23 reasonableness determinations already made.

24 (i) While a participating utility may use, develop, and
25 maintain broadband systems and the delivery of broadband
26 services, voice-over-internet-protocol services,

1 telecommunications services, and cable and video programming
2 services for use in providing delivery services and Smart Grid
3 functionality or application to its retail customers,
4 including, but not limited to, the installation,
5 implementation and maintenance of Smart Grid electric system
6 upgrades as defined in Section 16-108.6 of this Act, a
7 participating utility is prohibited from offering to its retail
8 customers broadband services or the delivery of broadband
9 services, voice-over-internet-protocol services,
10 telecommunications services, or cable or video programming
11 services, unless they are part of a service directly related to
12 delivery services or Smart Grid functionality or applications
13 as defined in Section 16-108.6 of this Act, and from recovering
14 the costs of such offerings from retail customers.

15 (j) Nothing in this Section is intended to legislatively
16 overturn the opinion issued in Commonwealth Edison Co. v. Ill.
17 Commerce Comm'n, Nos. 2-08-0959, 2-08-1037, 2-08-1137,
18 1-08-3008, 1-08-3030, 1-08-3054, 1-08-3313 cons. (Ill. App.
19 Ct. 2d Dist. Sept. 30, 2010). Public Act 97-616 shall not be
20 construed as creating a contract between the General Assembly
21 and the participating utility, and shall not establish a
22 property right in the participating utility.

23 (k) The changes made in subsections (c) and (d) of this
24 Section by Public Act 98-15 are intended to be a restatement
25 and clarification of existing law, and intended to give binding
26 effect to the provisions of House Resolution 1157 adopted by

1 the House of Representatives of the 97th General Assembly and
2 Senate Resolution 821 adopted by the Senate of the 97th General
3 Assembly that are reflected in paragraph (3) of this
4 subsection. In addition, Public Act 98-15 preempts and
5 supersedes any final Commission orders entered in Docket Nos.
6 11-0721, 12-0001, 12-0293, and 12-0321 to the extent
7 inconsistent with the amendatory language added to subsections
8 (c) and (d).

9 (1) No earlier than 5 business days after May 22, 2013
10 (the effective date of Public Act 98-15), each
11 participating utility shall file any tariff changes
12 necessary to implement the amendatory language set forth in
13 subsections (c) and (d) of this Section by Public Act 98-15
14 and a revised revenue requirement under the participating
15 utility's performance-based formula rate. The Commission
16 shall enter a final order approving such tariff changes and
17 revised revenue requirement within 21 days after the
18 participating utility's filing.

19 (2) Notwithstanding anything that may be to the
20 contrary, a participating utility may file a tariff to
21 retroactively recover its previously unrecovered actual
22 costs of delivery service that are no longer subject to
23 recovery through a reconciliation adjustment under
24 subsection (d) of this Section. This retroactive recovery
25 shall include any derivative adjustments resulting from
26 the changes to subsections (c) and (d) of this Section by

1 Public Act 98-15. Such tariff shall allow the utility to
2 assess, on current customer bills over a period of 12
3 monthly billing periods, a charge or credit related to
4 those unrecovered costs with interest at the utility's
5 weighted average cost of capital during the period in which
6 those costs were unrecovered. A participating utility may
7 file a tariff that implements a retroactive charge or
8 credit as described in this paragraph for amounts not
9 otherwise included in the tariff filing provided for in
10 paragraph (1) of this subsection (k). The Commission shall
11 enter a final order approving such tariff within 21 days
12 after the participating utility's filing.

13 (3) The tariff changes described in paragraphs (1) and
14 (2) of this subsection (k) shall relate only to, and be
15 consistent with, the following provisions of Public Act
16 98-15: paragraph (2) of subsection (c) regarding year-end
17 capital structure, subparagraph (D) of paragraph (4) of
18 subsection (c) regarding pension assets, and subsection
19 (d) regarding the reconciliation components related to
20 year-end rate base and interest calculated at a rate equal
21 to the utility's weighted average cost of capital.

22 (4) Nothing in this subsection is intended to effect a
23 dismissal of or otherwise affect an appeal from any final
24 Commission orders entered in Docket Nos. 11-0721, 12-0001,
25 12-0293, and 12-0321 other than to the extent of the
26 amendatory language contained in subsections (c) and (d) of

1 this Section of Public Act 98-15.

2 (1) Each participating utility shall be deemed to have been
3 in full compliance with all requirements of subsection (b) of
4 this Section, subsection (c) of this Section, Section 16-108.6
5 of this Act, and all Commission orders entered pursuant to
6 Sections 16-108.5 and 16-108.6 of this Act, up to and including
7 May 22, 2013 (the effective date of Public Act 98-15). The
8 Commission shall not undertake any investigation of such
9 compliance and no penalty shall be assessed or adverse action
10 taken against a participating utility for noncompliance with
11 Commission orders associated with subsection (b) of this
12 Section, subsection (c) of this Section, and Section 16-108.6
13 of this Act prior to such date. Each participating utility
14 other than a combination utility shall be permitted, without
15 penalty, a period of 12 months after such effective date to
16 take actions required to ensure its infrastructure investment
17 program is in compliance with subsection (b) of this Section
18 and with Section 16-108.6 of this Act. Provided further, the
19 following subparagraphs shall apply to a participating utility
20 other than a combination utility:

21 (A) if the Commission has initiated a proceeding
22 pursuant to subsection (e) of Section 16-108.6 of this Act
23 that is pending as of May 22, 2013 (the effective date of
24 Public Act 98-15), then the order entered in such
25 proceeding shall, after notice and hearing, accelerate the
26 commencement of the meter deployment schedule approved in

1 the final Commission order on rehearing entered in Docket
2 No. 12-0298;

3 (B) if the Commission has entered an order pursuant to
4 subsection (e) of Section 16-108.6 of this Act prior to May
5 22, 2013 (the effective date of Public Act 98-15) that does
6 not accelerate the commencement of the meter deployment
7 schedule approved in the final Commission order on
8 rehearing entered in Docket No. 12-0298, then the utility
9 shall file with the Commission, within 45 days after such
10 effective date, a plan for accelerating the commencement of
11 the utility's meter deployment schedule approved in the
12 final Commission order on rehearing entered in Docket No.
13 12-0298; the Commission shall reopen the proceeding in
14 which it entered its order pursuant to subsection (e) of
15 Section 16-108.6 of this Act and shall, after notice and
16 hearing, enter an amendatory order that approves or
17 approves as modified such accelerated plan within 90 days
18 after the utility's filing; or

19 (C) if the Commission has not initiated a proceeding
20 pursuant to subsection (e) of Section 16-108.6 of this Act
21 prior to May 22, 2013 (the effective date of Public Act
22 98-15), then the utility shall file with the Commission,
23 within 45 days after such effective date, a plan for
24 accelerating the commencement of the utility's meter
25 deployment schedule approved in the final Commission order
26 on rehearing entered in Docket No. 12-0298 and the

1 Commission shall, after notice and hearing, approve or
2 approve as modified such plan within 90 days after the
3 utility's filing.

4 Any schedule for meter deployment approved by the
5 Commission pursuant to this subsection (l) shall take into
6 consideration procurement times for meters and other equipment
7 and operational issues. Nothing in Public Act 98-15 shall
8 shorten or extend the end dates for the 5-year or 10-year
9 periods set forth in subsection (b) of this Section or Section
10 16-108.6 of this Act. Nothing in this subsection is intended to
11 address whether a participating utility has, or has not,
12 satisfied any or all of the metrics and performance goals
13 established pursuant to subsection (f) of this Section.

14 (m) The provisions of Public Act 98-15 are severable under
15 Section 1.31 of the Statute on Statutes.

16 (Source: P.A. 98-15, eff. 5-22-13; 98-1175, eff. 6-1-15;
17 99-143, eff. 7-27-15; 99-642, eff. 7-28-16; 99-906, eff.
18 6-1-17.)

19 (220 ILCS 5/4-305 rep.)

20 (220 ILCS 5/8-304 rep.)

21 (220 ILCS 5/8-405 rep.)

22 (220 ILCS 5/8-405.1 rep.)

23 (220 ILCS 5/9-216 rep.)

24 (220 ILCS 5/9-222.3 rep.)

25 (220 ILCS 5/9-242 rep.)

1 (220 ILCS 5/13-407 rep.)

2 Section 15. The Public Utilities Act is amended by
3 repealing Sections 4-305, 8-304, 8-405, 8-405.1, 9-216,
4 9-222.3, 9-242, and 13-407.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.

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2

Statutes amended in order of appearance

3

20 ILCS 661/20

4

220 ILCS 5/2-105

from Ch. 111 2/3, par. 2-105

5

220 ILCS 5/2-106

from Ch. 111 2/3, par. 2-106

6

220 ILCS 5/4-304

from Ch. 111 2/3, par. 4-304

7

220 ILCS 5/5-102

from Ch. 111 2/3, par. 5-102

8

220 ILCS 5/6-102

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9

220 ILCS 5/7-204

from Ch. 111 2/3, par. 7-204

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220 ILCS 5/8-103B

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